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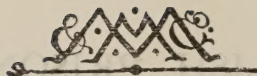
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ENGLISH PRISON

THE ENGLISH PRISON SYSTEM

By J. F. COLEMAN, Esq., Barrister at Law.

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THE
ENGLISH PRISON
SYSTEM

BY
SIR EVELYN RUGGLES-BRISE, K.C.B.,
CHAIRMAN OF THE PRISON COMMISSION FOR
ENGLAND AND WALES
AND
PRESIDENT OF THE INTERNATIONAL PRISON COMMISSION

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THE ENGLISH PRISON SYSTEM

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SIR EVELYN RUGGLES-BRISSE, K.C.B.

CHAIRMAN OF THE PRISON COMMISSION FOR
ENGLAND AND WALES
PRESIDENT OF THE INTERNATIONAL PRISON COMMISSION

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PREFACE.

In October, 1910, I conveyed to the International Prison Congress at Washington the invitation of the British Government to hold the next Quinquennial Congress of 1915 in London. The invitation was accepted with enthusiasm. The London Congress of 1872 had prepared the way for the creation of the International Commission, which was founded a few years later; but, though supported and encouraged by the Government of the day, it owed its origin to American influence, notably that of the celebrated Dr. Wines. Great Britain did not formally adhere to the International Commission till 1895, when Mr. Asquith, then Home Secretary, nominated the present writer as British Representative to the Paris Congress of that year. Since that date, the Quinquennial Congresses had been held at Brussels, Buda-Pesth, and Washington in 1900, 1905, and 1910, at all of which the British Government was represented, the reports of the proceedings being duly submitted to Parliament.

The preliminary arrangements for the Congress in London in 1915 had been carefully prepared by meetings of the Commission representing the United Kingdom, the United States of America, Baden, Bavaria, Belgium, Bulgaria, Canada, Denmark, France, Greece, Holland, Hungary, Italy, Japan, Luxemburg, Norway, Russia, Servia, South Africa, Spain, Sweden, and Switzerland. It was intended also to invite our Dominions-over-Sea—India, and Egypt, to send special representatives. These meetings were held in Paris in 1912, and in London in 1914, the British Committee consisting of the Chairmen of the Prison Boards for Scotland and Ireland (Lord

Polwarth, and Mr. Max (Green), Sir Basil Thomson, K.C.B., and Mr. A. J. Wall, O.B.E., the late and present Secretaries of the English Board, and myself, as President of the International Commission.

But man only proposes, and the Great War intervened to prevent the realization of those plans. It has, also, of course, for the time being, arrested the development, and thwarted the purpose, of what promised to be a great international movement for the discussion and improvement of all methods affecting the punishment and treatment of crime.

It was for the purpose of the Congress of 1915 that I prepared this short manual, in order that the history and leading features of the English Prison System might be understood by our foreign visitors, and especially its more notable developments of recent years, since England joined the Congress in 1895. *

I had been greatly impressed with the singular ignorance that existed, both on the Continent and in the United States, of the character of British penal methods.

In my Report on the Brussels Congress, 1900, I wrote as follows:—

“It is often asked, “What is the value of these Congresses?” It must not be supposed that an Englishman, going to hear discussions on penal subjects in a foreign country, where the laws, habits, and character of the people are entirely different, is going to bring back new ideas of Prison administration, which he will be able at once to apply, with advantage, in his own country; nor must it be supposed that he is going to carry with him instructions and opinions on these matters which other nations will readily adopt. With a pardonable pride in his national institutions, he is disposed to think that his Prison system is the best in the world; but when he goes abroad he must not be surprised to hear the same claim raised by other countries. He will find that where the English system

* Although the greater part of this work was prepared in 1915, where it has been possible, the statistics furnished are of a more recent date.

is not known or is misunderstood, it is but little appreciated. There is a general idea that our punitive methods are harsh, if not barbarous. Legends circulate as to the terrors of the "*fouet*," the ingenious torture of "*la roue*," and the grinding tyranny of "*travaux forcés*." It is not surprising that even an intelligent foreigner fails to grasp the distinction between a sentence of "hard labour" and one of "penal servitude;" so misleading are our terms. At the recent Congress, the Head of the Russian Prisons asked me what is the minimum time for which a sentence of "hard labour" could be imposed, thinking that it was something in its duration and severity comparable to the "*katorga*" of his own country. When I explained that it might be inflicted for one day only, he turned to his Secretary with a smile, saying, "How little do we understand the English system!" There is a minority, and I hope an increasing one, who understand and appreciate the efforts that have been made of late years to improve the conditions of the treatment of crime in this country."

The comparatively few foreigners who had a personal acquaintance with our Institutions did not conceal their admiration for the order, method, discipline, and exactness which characterize our methods of dealing with crime; but, generally speaking, these legendary ideas prevailed.

The shadow of transportation, of the dark days of penal servitude, and of grievous floggings, hindered a true conception of English methods.

I looked forward to the London Congress as the occasion to dispel these illusions.

A short historical retrospect will show that it is only in comparatively modern times that '*Imprisonment*' became the recognized method for the punishment of crime, and that prison reform, in the sense of *moral* improvement by imprisonment was formulated as a political duty, and became an earnest pre-occupation of statesmen and philosophers. Prisons, as places of punishment, were unknown to ancient Roman law. The '*carcer*' was known only as a place for 'holding' prisoners, not for 'punishing' (*ad continendos, non ad puniendos homines*), and the object of punishment was frankly held by Roman

legists to be only that of deterrence by fear. The '*carcer*' is not mentioned in the list of Roman penalties: death by hanging, by being hurled from the Tarpeian rock, drowning in a sack; with exile, beating with rods, &c., were the methods with which as schoolboys we were familiar.

In that dark period of penal law, based, as it was, on the ideas of vengeance and intimidation alone, which lasted down to the French Revolution, we find little, or no, reference to Imprisonment as the punishment for crime. In the long list of punishments under the old French Code we find '*réclusion perpétuelle*' as a punishment for women and a substitute for the galleys and banishment. There is too '*la prison perpétuelle*,' but this was not an organized system, but really a euphemism for that mysterious disappearance of persons obnoxious to the Crown or the State by '*lettres de cachet*,' or otherwise.

The Declaration of the Rights of Man in 1789 marks the beginning of the reaction against these ideas, and the substitution of an orderly and methodical system of punishment. We find 'Imprisonment' formally installed for the execution of offences against the law in the French Code of 1791. At this time Mirabeau is said to have anticipated modern penitentiary science by publishing a remarkable report, declaring Prisons to be '*maisons d'amélioration*,' founded on the principle of labour, separation, rewards under a 'mark' system, conditional licence, and aid-on-discharge. We seem to be reading a modern treatise on Prisons—a sudden gleam of light, bursting on an age darkened by the shadow of much unutterable cruelty in the punishment of crime.

But there were certain influences that had been silently operating for some time before this, and leading men's minds to a juster and truer conception of the purpose of punishment. Those influences were both ecclesiastical and secular. The influence of the Church in the middle ages has profoundly affected the modern idea of punishment. '*Le système pénitentiaire*' is the direct heir of the '*pénitences*' of the Church. In days when no distinction had yet been created between crime and sin, these were the expiation of both. The public '*pénitence*' effected

both repentance and example, as a warning to others. The private '*pénitence*' worked by 'solitude,' to the moral value of which the early Church attached very great value—" *Quoties inter homines fui, minus homo redii*" was the guiding maxim which separated the monk from his fellow-man. 'Solitary confinement,' as we understand the phrase, dates from the old '*Detrusio in Monasterium*' of Canonical law.

But while religious custom had rendered familiar the idea of deprivation of liberty as a means of effecting both repentance and expiation, the influence of the French philosophers and encyclopædists of the eighteenth century had destroyed the claims of the State to deprive a person of liberty by arbitrary process for indefinite periods, or for any period beyond that warranted by the strict necessity of the case. The famous treatise of Beccaria in the middle of the same century further determined the reaction against all arbitrary, unjust, and cruel penalties. He was the first of the utilitarians; every punishment which did not arise from actual necessity of social defence, was, to him and his school, tyrannical and superfluous. Its object was not to torment or afflict a sensitive human being beyond the strict limit of social utility. His propositions have become commonplaces now; but they were new in the age when they were written, and probably no work has exercised a greater influence in the domain of penal law.

It is true that, irrespective of the influence of the Church, and of the writings of philosophers, isolated experiments in the way of prison reform had been made in different parts of Europe during the seventeenth and eighteenth centuries. Some of these anticipated in a remarkable way the principles in vogue to-day.

The Protestants of Amsterdam in 1593 built a prison for women, which had for its object their moral reform by work and religious influences. There are records of similar establishments in Germany and Hanseatic towns. In 1703, Clement XI. built the famous Prison, St. Michel, for young prisoners, and, later in the century, Villain XIV. built the celebrated cellular prison at Gand, which excited the admiration of our own Howard.

It was the immortal Howard who first stirred public opinion in England to consider the question of prison reform. As Burke finely said of him "He surveyed all Europe, not to view the sumptuousness of palaces, but to survey the mansions of sorrow and of pain: to collect the distresses of men in all countries. The plan was original, and full of genius as of humanity. It was a voyage of discovery."

The names of Howard and Bentham will always stand in the forefront of those who in those dark days tried to enlist public sympathy for the prisoner and captive,—the former by his keen humanity, protesting against the abuses and barbarisms which he found to exist at home and abroad: the latter, as utilitarian and economist, devising a new system to secure, firstly, a rational system of legal punishment for the offence committed, and, secondly, a rational system of treatment while in prison after commitment.

To the casual student of English Prison history, Bentham is known chiefly as the author of the somewhat whimsical scheme known as the 'Panopticon'—a structural device for securing, in the first place, the safe custody of prisoners and economy of administration. Because he said boldly that he rejected sentiment in his construction of a Prison System, his influence has been sometimes regarded as hostile to the reformatory idea which was beginning to gain ground in Europe; but in rejecting sentiment, he, at the same time, admitted that, controlled by reason, it was a useful monitor, and, indeed, it is the great merit of Bentham that, in an age when there was grave need of adjustment of the essential factors of punishment, he worked for a compromise between a too great pre-occupation with its moral purpose, and a too severe insistence on its penal and terrifying effect. Though in vigorous language he preached the gospel of 'grinding rogues honest,' it was part of his plan to educate, to classify, to make methodical provision for discharge, and, lastly, he may be said to be the founder of the modern school of criminology in laying stress on the absolute necessity of preventing crime by discovering and combating its causes.

But Bentham was in advance of his age in these matters,

though his writings exercised a considerable influence in France, where jurists were busy preparing the Penal Code of the First Empire. History, by the pen of Professor Lecky, has severely condemned the statesmen of that period for their callous indifference to all questions relating to the treatment of crime and of prisoners. He says: "England, which stood so high among the nations of the world in political, industrial, and intellectual eminence, ranked in this matter shamefully below the average of the Continent." There was, in fact, no penal system, strictly so-called. It was simply a policy of '*débarras*,' under which all offenders against the law were shipped to the Colonies; young and old, grave and petty offenders were all banished under a rough and ready scheme of Transportation, (as explained in my Chapter on the history of Penal Servitude). So long as this System lasted—from 1787 to 1845—the modern problems, which are involved in keeping our prisoners at home, did not occupy the public mind. This apathy and callousness was not due entirely to the sense of security which Transportation gave by the practical elimination from the body politic of persons presumed dangerous to the State: it was due also to the want of imagination, which is the parent of cruelty. For this, the absence of any system of National Education must be held responsible. It was not until imagination was quickened by the great religious revivals, by the gradually increasing power of the Press—the champion of all forms of unnoticed suffering) and by the spread of education among the masses, that Philanthropy, in its modern garb, the Inquisitor of prisons and of the dark places of the world, came down to the earth, and demanded that all those cruelties which were associated with English penal law should cease, and that it should no longer be possible to say with Sir S. Romilly (1817) that "the laws of England were written in blood." *Excidat illa dies arvo nec cetera credant secula.*

But dawn was breaking, and the impulse that was to compel attention to '*la question pénitentiaire*' came from the other side of the Atlantic.

I have shown, in tracing the history of imprisonment for short sentences (Local Prisons) in this country, how paramount was the influence of America in the first half

of the last century. The echo of the controversy between those who upheld the Auburn and the Philadelphian Systems—the Cellular and Associated plans—respectively, still lingers. In America, the movement which determined the reform of Prisons was essentially religious. It was the old idea of '*Pénitence*' borrowed from the Canonical Law, which there, as in Europe, dominated the minds of men who regarded a sentence of the law as the instrument for bringing back the mind of the offender, by solitude and meditation, to remorse for the sinful act, and amendment for the future. The prison cell, as with the monks of old, was the method of redemption—*cella continuata dulcessit*." If by its positive effect the cell worked redemption of the soul, its negative result was claimed to be equally efficacious in preventing contamination by means of segregation. Pressed severely to its logical conclusion, cellular seclusion became a refinement of cruelty, while, on the other hand, promiscuity, resulting from unregulated association, was admitted in this, as in other countries, to be the nursery of crime. From that day, the course of Prison Reform has been in the direction of finding a compromise between these two opposite principles; an effort to reconcile the deterrent effect of punishment with the object of so improving the mind and body of a prisoner that he shall leave Prison a better and not a worse man. Because it is a more inspiring and a nobler task to reform a man by punishment, than to use punishment merely as the means of retribution by exacting from him the expiation of his offence by a dull, soulless, and a monotonous servitude, public sentiment, in all its zeal for the rehabilitation of the offender, is apt to overlook the primary and fundamental purpose of punishment, which, say what we will, must remain in its essence retributory and deterrent.

It is a curious and interesting fact that a dispute between two neighbouring States in America as to the best plan to follow in dealing with offenders—whether it was better to keep them in their cells day and night, or during the night only, should have determined for England, France, and other parts of Europe the method of imprisonment to be adopted, viz:—the Cellular System. The System found favour in Europe, as in America, for

its moral or religious value; in other words, the *reform* of the prisoner from this date takes its place deliberately as one of the essential factors of punishment, side by side with retribution and deterrence. As I have said, it was essentially a religious movement, but to the success of the propaganda, which elevated the cellular system almost to a fetish, there were contributing causes of a more practical nature,—the admitted evils of unregulated association, the urgent need of a new method of construction, the greater security of prisoners, and the economy of administration, resulting from the employment of a smaller staff for supervision. These latter considerations soon became the principal pre-occupation of those engaged in prison administration. For many years following the triumph of the cellular system, the originally dominating idea of moral reform, as the principal purpose of punishment, seemed to be lost sight of in a hurried rush, both in England and on the Continent, to build new prisons on the cellular plan, to improve their sanitary conditions, to regulate dietary, to organize labour, and generally to concentrate on the economic, rather than on the moral, improvement of those suffering imprisonment.

The writings of De Tocqueville and Beaumont, the delegates sent out by France to study the cellular plan in America, had a wide influence in restraining that excessive zeal for aiming at the moral or religious reform of prisoners, which had inspired the Quakers of Pennsylvania in their crusade against the abuses of the old system. The words of De Tocqueville are worth quoting, as they called back the minds of men at a time when such a warning was greatly needed, to a just and wise appreciation of the function and purpose of punishment, and corrected a tendency which is always asserting itself, to exaggerate the necessity for moral and spiritual reform, at the expense of the other essential attributes of punishment. He says, “I say it boldly: if the penitentiary system has no other purpose than reform, the lawgiver must abandon the system, not because it is not admirable, but because it is too rarely attained. The moral reform of the individual is a great thing for the religious man, but not for the statesman: a political institution does not exist for the individual, but for the mass. Moral reform

is then only an accident of the system. Its value is in the habit of order, work, separation, education, obedience to inflexible rule. These have a profound moral value. If a man is not made honest, he contracts honest habits: he was a useless person, he now knows how to work: if he is not more virtuous, he is at least more reasonable: he has the morality of self-interest, if not of honour."

MM. De Tocqueville and Beaumont had been commissioned by the French Government in 1831 to visit the United States, and to report on the comparative advantages of the Auburn and Pennsylvania systems. They were followed in 1837 by M. Demetz, the famous founder of the Colony of Mettray. It was due to the influence of these men, aided by the writings of MM. Lucas and Béranger in France, and of Ducpetiaux in Belgium, that a remarkable impulse was given in Western Europe to the adoption of the cellular system. Two International Congresses were held at Frankfort in 1846, which declared in favour of the separate system. It was to this period of keen interest in the question of prison reform that in England we owe the model prison at Pentonville, 1842, the Prison of Louvain in Belgium, and a large number of cellular prisons built in France, Switzerland, Prussia, Sweden, Norway and Denmark. We have here the beginning of the later International movement, which afterwards found expression in the International Prison Commission—a formal body of experts nominated by most of the leading States of the World, whose periodical meetings in different centres since the London Congress of 1872 are recognized as a great civilizing influence in all that relates to the treatment of prisoners, the construction of Prisons, and the revision of penal law.

It may be stated broadly that to France and America must be given the credit for the impulse and energy which lit and kept alive the torch of prison reform during those years of the last century, say 1830-70, when, by reason of dynastic changes on the Continent, and political struggles at home, the flame might have been obscured, or even extinguished. Although, in many countries, as in our own, eminent men and women, whose names will always live, had even from the middle of the eighteenth century, inspired by a lofty humanity, raised

their voices in protest against the callous indifference which tolerated much cruelty and barbarity in the system of punishments, yet, the main impulse came, on the one hand, from the religious zeal of the Pennsylvanian Quakers who tried to utilize deprivation of liberty, by means of imprisonment, as an instrument for effecting the spiritual regeneration of the offender; on the other, from the political zeal for the rights of man—even the reversionary rights of the prisoner,—which dominated French thought, under the influence of the encyclopædists. These currents, re-acting on each other, determined the course of public opinion in the direction of regarding a good, just, and humane prison system as the index of a progressive civilization. It was the combination of these two influences in concrete, which, just fifty years ago, inaugurated what may be called the ‘modern system.’ The famous Commission of enquiry into the state of Prisons, appointed by the National Assembly in France in 1871, and with which the names of d’Haussenville, Bérenger, and Félix Voisin will always be honourably connected, was followed immediately by the mission to Europe of Dr. Wines, the Secretary of the Prison Association of New York. To his energies we owe the London Congress of 1872, the parent of the International Prison Commission, established on a secure and lasting basis a few years later. In 1877, was founded in Paris the *Société Générale des Prisons*—the French Academy of penal science—a body of men distinguished in law, medicine, science, and philanthropy, who have consistently since that day, through their Journal, ‘*La Revue Pénitentiaire*’—a monthly publication,—informed and educated public opinion throughout the civilized world on all questions relating to the treatment, and, notably, the prevention of crime.

The first International Congresses—known generally as ‘Prison’ Congresses, were concerned more with ‘Prison’ than with penal law, with visits to penal establishments, and with comparisons of Prison systems. The *régime pénitentiaire* was the principal pre-occupation, but the subjects of discussion soon outgrew the original limits. The sphere of inquiry gradually broadened. The prison régime is only the expression of the penal law, which itself again is only the expression of the public sentiment or opinion, which is the final arbiter in deciding the methods

to be followed in maintaining the rights of the community against those who threaten its peace and security. Succeeding Congresses, therefore, as was to be anticipated, composed, as they were, not only of Prison officials and experts in prison management, but of persons from all countries, distinguished in law, medicine, and science, claimed for themselves a larger field and a more ambitious title. *La 'Science' pénitentiaire* is declared to be the new scope and title of the work. It is an all-embracing phrase, and, from the necessities of the case, of ambiguous meaning. It includes both practical knowledge of administration, and the knowledge by which Science, in its strict sense, can inform and instruct in dealing with the problem of crime, and of criminal man. To these must be added Social Science, and all implied by that wide term. The re-action that became manifest at the close of the last century was against what is called the "classical" conception of crime and punishment. Professor G. Vidal, the eminent author of '*Droit Criminel et la science pénitentiaire*' has shown how rigid and mechanical, under the influence of the French penal code, the administration of criminal justice had become. The accused was simply a '*type abstrait*' a "*mannequin vivant sur lequel le juge colle un numéro du code pénal.*" A re-action against this abstract conception of crime came in the early 'eighties from a school of Criminologists known as the Italian School, of which the chief was Lombroso. Theories of the *criminel-né*—i.e., a human being foredoomed to crime by atavistic propensity, and distinguishable physical stigmata, or '*tares physiologiques*'—created considerable sensation at the time, and it cannot be denied that, though refuted by later enquiry, they exercised a profound influence in Europe, and gave a direct impulse to the scientific study of the *causes* predisposing to criminal acts. This study has since become the principal preoccupation in all countries of those interested in what, by a misnomer, is spoken of generally as Prison Reform. The phrase remains, but it refers no longer to questions concerning the construction and management of prisons, the comparative merits of the cellular or associated plan, forms and methods of prison industries, staff and discipline.

The Prison Reformer of to-day has adopted from Continental writers a phrase, which is at once the motto and the principle of his faith. '*L'individualization de la peine*' sums up concisely the new tendency. This phrase aptly expresses the efforts now being made throughout the civilized world to grapple with the problem: not by dealing with prisoners as 'abstract types,' or in the mass, by imposing hard and fast regulations to be adopted for one and all irrespective of individuality, but to deal with each case on its merits: to note its peculiarities, and above all things, by 'preventive' measures to avert an otherwise certain gravitation towards crime.

In the working out of this problem, the International Commission is a sort of 'League of Nations,' ever striving by the invention of new Preventive measures, not so much to improve the habitation, custody, and treatment of offenders who are committed to prison, but to prevent them from arriving at that stage where commitment to prison becomes necessary, for long or short periods, in the interests of the security and protection of the community.

The aid of science is more and more invoked, and it is with reason and good purpose that the International movement professes to be a movement for the discovery and propagation of '*la science pénitentiaire*.' Of all the sciences invoked in the cause of prison reform, medical science is assuming more and more a preponderating rôle in the domain of criminal justice. The mysterious laws of 'psychiatry'—a word of common use and application in all discussions in the problem of crime,—now engage, especially in the United States, a keen and close attention. The 'psychical laboratory' is, in many States, a necessary appanage of a penal institution. In theory, the knowledge of the mental state of a person committing an offence is a condition precedent to a correct assessment of guilt. Such investigation includes not only the diagnosis by scientific test of mental state, but of all those pathological conditions resulting, perhaps, from physical or external causes, hereditary or otherwise, which may be held to attenuate responsibility for any given act. The psychical laboratory as a system in aid of justice assumes, of course, a normal or reasonable being, and to such a

being alone can full responsibility be attached. It is obvious to what extravagance such a system can be pushed, but the underlying principle is sound, and a perfect prison system, based on science, would adapt its treatment to a far greater degree than at present to the varying categories of offenders, who, under the old classical system, which recognized only the uniform and abstract type of crime and criminal, would be consigned equally to the one abstract and uniform type of penalty—the prison cell.

But it is not only medical science which claims this preponderating rôle. If the Lombrosian School erred in asserting the predominant influence of what was called the ‘physio-psychical’ conditions of crime: if the right to punish man be based not on the character of the crime, but on the constitution of the criminal, the doctor would usurp the function of the judge, and the bankruptcy of the old penal system would be complete. It was in protest against this extravagant assertion of the claims of medical and mental science (medico-légale expertise) that a succession of Congresses was held on the Continent in the latter part of the last century (*Congrès International d’anthropologie et sociologie*), at the last of which—the Congress of Geneva, 1896—the English Government was represented. The general result of the discussions that took place was to reject the Lombrosian idea of the physical or constitutional causes of crime, and to assert the importance of ‘milieu’ (nurture and environment) as the predisposing factor in anti-social conduct,—in the words of Dr. Lacassagne, Professor of Legal Medicine at Lyon—words which sum up tersely the familiar view that crime is entirely the result of social conditions, ‘*le milieu social est le bouillon de culture de la criminalité, le microbe c’est le criminel.*’

The relative part played by inherited propensity and social environment remains to-day the leading subject of controversy with those interested in the philosophical aspect of crime. England has contributed its share to this controversy in the remarkable work of Dr. Goring “The Study of the English Convict,” of which I have given a brief account in the Chapter “A Criminological

Inquiry in English Prisons." His early death has robbed penal science of a brilliant and earnest votary; but his work will always remain as the first attempt to analyze the causes of crime by strictly scientific method. An abridged edition of his work has lately been published, with an Introduction by Professor Karl Pearson, under whose auspices and guidance it was compiled at the Biometric Laboratory of the London University. An Introduction by Professor Pearson not only marks the great scientific value of this attempt to probe the causes of crime, but gives a just and merited appreciation of a singular effort by a very remarkable man to test the observations and experience that came to him as a Medical Officer of Prisons by the latest methods of scientific investigation.

On the Continent of Europe there has been proceeding since 1869 an attempt to reconcile the extreme views of the Italian School as to the predestination by atavistic or innate disposition to criminal acts with the theory that the causes of crime are to be sought exclusively in social condition. In that year, was founded *l'Union Internationale de droit pénal*, of which the most distinguished founders were three Professors of Law—Van Hamel, Prius, and Von Liszt, Professors of Law at the Universities of Antwerp, Belgium, and Berlin, respectively. Since that date, Congresses have been held at Brussels, Berne, Christiania, Lisbon and Buda-Pesth. The object of this School, while admitting the value of experimentation by anthropological and sociological study and research, was to encourage preventive work, so that the occasion of crime might be anticipated, be it that of social circumstance which induced the predisposition to the anti-social act (the occasional criminal), or the psychophysiological state which, unless discovered and checked in the beginning by appropriate preventive handling, medicinal or institutional, is likely to become the parent of conduct dangerous to the community (the habitual criminal). The two factors, external and internal, often co-exist, and the difficulty of the problem must be intensified by their co-existence. It is, therefore, only by the 'individualization of punishment' i.e., by a careful, and

exact, and scientific system of preventive diagnosis that a true and correct assessment of criminal responsibility can be attained. This is the modern system—the point to which the long road of penal device, theory, and invention leads. The problem is scientific and social. To deal with it effectively we require not only what science can disclose in the sphere of mental diagnosis, and therapeutics (psychiatry), but what the improvement of social condition can effect in raising the standard of life.

It may not occur to those who observe casually, and perhaps carelessly, the phenomenon of crime to what an extent it depends on, and can be explained by, strictly social conditions. What is summarized by criminologists under the title of '*l'hygiène préventive*' comprises all those social and political reforms which make up the 'Social Programme,' which is engaging the attention of our statesmen to-day. Better housing and lighting, the control of the Liquor Traffic, cheap food, fair wages, insurance, even village Clubs, and Boy Scouts, in fact, all the special and political problems in vogue to-day—all re-act directly on the state of crime. The great War—terrible and hard school of experience though it has been—has given us the great object lesson of what new conditions of life, resulting notably from the control of the Liquor Trade and facility of employment, can effect. A century of legislation directed to the changes of the penal code, or the methods of punishment, would not effect what social legislation, induced by the War, and affecting the daily habit and living of the people, has revealed during the last five years,—the numbers coming to prison reduced 75 per cent! 71 per 100,000 committed to prison in 1918, as against 369 in 1913: the committals for Drunkenness reduced from 70,000 to 2,000: the almost complete disappearance of Vagrancy—a reduction from 24,000 to 1,200—the "*plaie sociale*"—the despair and the problem of the prison and social reformer.

By recapitulating shortly in this Preface the history of punishment in its successive phases since the question of Prison Reform first began to occupy the minds of statesmen and philanthropists in the middle of the eighteenth

century, I have endeavoured to make it clear to those who, in the future, will be responsible for the law and practice of Prisons, the direction in which progress lies. Given firm, thoughtful, humane administration in all that concerns the actual custody of all offenders of both sexes of the various categories, given a wise classification and treatment according to age, sex, and nature of the offence—the future lies in Preventive Science; on the one hand, medical science, strictly so-called, which shall, by diagnosis and therapeutics of the mental and physical state, *in early age before it is too late*, correct and restrain by suitable preventive means, institutional or otherwise, the tendency to anti-social conduct; and on the other, social or political science, which, by raising the standard of life among the masses, will re-constitute the ‘*milieu*’ whence vice and misery spring. Let not the reproach again be made by an English historian that “England falls shamefully below the level of foreign countries” in this great matter. If foreign countries rightly admire the method, discipline, firmness, and impartiality of our penal system, let them also recognize that we are not behindhand in what Preventive Science has to teach in the domain of medicine, law, and social hygiene. While firmly maintaining the system of human rights unimpaired, and while not failing in the protection of the State from any attack made on that system by persons, individually or collectively, let us exhaust every means for saving the potential offender from succumbing inevitably, in the absence of prophylactic methods, to the temptations to commit anti-social acts, which from causes mental, physical, or social he is unable to resist. This is the meaning of the ‘individualization of punishment’—it is quite consistent with a firm administration of penal justice, but it destroys for ever the old classical idea of the ‘abstract type of criminal.’ In other words, justice demands that the old formula of ‘Imprisonment with or without hard labour’ indiscriminately applied, shall no longer be held to satisfy all her claims.

The re-action against this so-called ‘*désimétrie pénale*’ i.e., the abstract conception of crime and the mechanical application of punishment ‘according to code’ is a growing

force. It is marked in the United States of America by the universal adoption of the 'Indeterminate sentence,' and on the Continent of Europe by various degrees for conditional conviction and liberation which find their place in the latest penal codes. In England and America, Probation: in France and Belgium, the '*sursis à l'exécution de la peine*'—all mark the reluctance to resort to fixed penalties when Justice can be satisfied by other means. England, I believe, stands alone in its adoption of the system of Preventive Detention—one of the most notable reforms of recent years for dealing with the Habitual Criminal. The success of the system, so far as it has gone, goes far to justify belief in the virtue of Indetermination of sentence. Public opinion may not be ripe for this yet, as applied to ordinary crime, but the principle which the system of Preventive Detention illustrates, viz:—the careful observation of the history, character, and prospects on discharge by an Advisory Committee on the spot, with a view to the grant of conditional freedom, furnishes in a different sphere an interesting example of the value of 'individualization.' The strict condition of release is that a man places himself under the care and supervision *not of the Police*, but of a State Association, organized and subsidized by the Government, but entirely controlled by a body of unofficial workers, who keep him under strict but kindly supervision, provide him with employment and lodgings, but unfailingly report him to the Authorities if he fails to observe any one of the conditions on which freedom has been granted. The singular success of this system applied to the worst and most inveterate criminals, each of whom has been found by a Jury to belong to the habitual criminal class, has naturally induced the opinion which is gaining ground, that similar methods might, with advantage, be used in dealing with the ordinary penal servitude population, and be substituted for the old ticket-of-leave system, under which remission of sentence can be earned by a more or less mechanical observance of prison rules, on the condition that the unexpired portion of the sentence is passed under Police Supervision. It is possible that comparison of the two systems may engage

public attention in the future, when interest in prison reform, obscured and diminished by the greater problems which the war has created, again asserts itself.

I have shown in the Chapter on Discharged Prisoners the indispensability of a good system of 'Patronage' or aid-on-discharge. Much has been done in this respect in recent years. The action of the Government in 1911 in recognizing the supreme importance of regulating the discharge of persons from penal servitude by the establishment of a State Association for this purpose, was a great step forward. To the Central Association for the aid of discharged convicts, then created, may be attributed a large and an honourable share in that remarkable decrease of recidivism which prison statistics illustrate, and to which reference is made in my Chapter on "Patronage, or Aid-on-discharge." It is also a remarkable example of the value of a co-operation by which the resources of the State, and the enthusiasm and *freedom of action* possessed by a voluntary association, can contribute to the diminution of crime.

The retrospective study of crime in this country since the London Congress, 1872 (Chapter XVII.), must suggest many reflections, both concerning its treatment in the past, and its prospect for the future. If we eliminate the period of War, 1914-18, the special conditions of which I have already referred to, the broad deduction may be made that so long as the classical conception of punishment remained, i.e., the mechanical application of the letter of the law to an abstract type of offender, no great impression was being made either in the number or character of offences. Statistics varied from year to year under the influence of special circumstances; but the great stage army of offenders in all the categories continued its unbroken array, with a monotonous regularity, and it seemed almost a mockery to talk of social progress, when, in the background was the silent, ceaseless tramp of this multitude of men, women, and children, finding no rest but behind prison walls, and only issuing thence to re-enter again.

In Chapter VII. (The Inquiry of 1894), I have shown how the public conscience awoke at the end of the last

century. It declared in a voice that could be heard that a determined effort must be made to grapple with this problem, and in two ways in particular. (a) It asserted the new policy of *Prevention, not* Prevention in the sense of the old penal servitude Acts, by which a criminal was prevented after a series of offences by strict supervision of Police from repeating his crimes, but Prevention which would strike at the sources of crime, by cutting off the supply *by concentration of effort on the young offender*; and (b) by the organization of such a system of Patronage, or Aid-on-discharge, that no prisoner could say with truth that he had fallen again from want of a helping hand. Prevention, in this sense, has been the watch-word of the Prison System since that time, and its effect is distinctly traceable in the statistics of crime since the beginning of the century.

Enough has been said to show that the future of crime is with the statesmen and men of science. The prison administrator plays only a small and obscure executive part—but from his experience and observation of the causes that make for crime, he may be able to denote the direction in which its gradual solution may be found. A quarter of a century spent by the Author in directing the prison administration of this country is his excuse for offering his humble contribution to this absorbing and all-important theme—

“Enough if something from our hands gives power
To live, and act, and serve the future hour.”

E. R. B.

DECEMBER, 1920.

THE ENGLISH PRISON SYSTEM.

CHAPTER I.

THE MEANING OF

“PRISON REFORM.”

“Prison Reform” is a phrase of many meanings. It is used indifferently by the publicist who is seeking a correct definition of the function of punishment: by the utilitarian who doubts if the official system of administration is fulfilling its State purpose: by the humanitarian whose pity is stirred by the inevitable austerity of a system, inflexibly applied to all who suffer deprivation of liberty, and whose mechanical operation might, in their opinion, be relaxed relatively to the vastly different mental and physical states of all the categories of human beings coming, in one way or another, within the domain of the criminal law.

All agree that the System should be, as far as possible, ‘Reformatory,’ but many are tempted to overlook that it must be also, if punishment is to have any meaning, coercive, as restraining liberty; deterrent, as an example; and retributory, in the sense of enforcing a penalty for an offence. When Plato said that the object of punishment is to “make an offender good,” he did not intentionally underestimate the ‘retributory’ theory of punishment. He only meant that, in the language of modern philosophy,

we must respect the reversionary rights of humanity, and while inflicting punishment for an anti-social act, must not lose sight of the duty of restoring, if possible, the offender to society as a better man or woman. As stated by the Committee of 1894, we must not regard him or her as "a hopeless and worthless element of the community." It must be admitted that chastisement by pain (*i.e.* temporary deprivation of liberty and all that that implies) appeals only to the lower nature, but it is effective in suggesting the consciousness of what the system of human rights means—the system which is maintained by a strong collective determination that it shall not be violated with impunity. This is commonly called 'retribution,' but it has nothing to do with vindictiveness or private vengeance. Society without such a collective determination to resent and punish anti-social acts would be a welter of anarchy and disorder. Let us not then be tempted in the goodness of our hearts, and in the strength of our human pity and sympathy, to overlook the necessary foundation of punishment, which is the assertion of the system of rights by pain or penalty—not pain in its physical sense, but pain that comes from degradation and the loss of self-respect.

There is some confusion in the everyday use of the phrases 'Prison Reform' and 'Penal Reform'. Formerly, 'Prison Reform' meant the structural reform of prisons, sanitation, order, cleanliness. To-day, it means the reform of the "prisoner" by improved methods of influence and treatment while in prison. 'Penal Reform' means strictly the reform of penal law, or of the system of punishment—a question of State policy, with which Parliament and the Judiciary are primarily concerned. These are, of course, greatly influenced by public sentiment and opinion. It is a difficult, complex, and subtle problem, for the solution of which we require legal knowledge, administrative experience, and a nice judgment of the temper of the community, and of the balance which should be kept between the just, and even stern, maintenance of the system of public rights and the rights of the individual human being, which must always be respected, even under chastisement. 'Prison Reform' is

not a theory of punishment: it is an incident of it: it is a question how far we can assert the rights of the State without unnecessary, or excessive, or unprofitable moral and physical damage to the individual.

Of physical damage we need not speak, for it must, I think, be conceded that the medical care of prisoners in this country is as exact, and patient, and considerate, as can be secured by an able, humane, and untiring medical staff.

With moral damage it is different. The most sanguine would hardly expect that, even with the most approved methods, the '*flétrissure*' of punishment can be entirely avoided: the blow to pride and self-respect, and of the respect of one's fellow creatures, must constitute a damage which, if not irreparable, must be heavy and even lasting. A humane administration will try and mitigate this inevitable incident of all punishment. Its first and primary function must be, of course, to secure obedience, discipline, order, and the habit of industry. These things alone have a great moral value. Many cruelties have been enacted in the past in the name of prison discipline—solitude, darkness, chains, floggings, treadwheels and cranks, even until a comparatively recent period, were regarded as the essential accessories of punishment. In studying the history of punishment, we cannot fail to be struck by the singular inventiveness of the human mind in designing forms of suffering for those who broke the law—crucifixion, mutilation, stoning, drowning, torture. It was not until the folly of unprofitable and cruel punishment had been illustrated, as in this country, by its failure to correct, or prevent, or until the certainty of punishment was recognized as the real deterrent for crime, that the penal system was rationalized, and by a slow process, due to a progressive widening of the circle of humanity, to what M. Tarde describes as "*la propagation ambiante des exemples*," the civilized races of the world laid down the sharp and cruel instruments by which alone it had been believed that society could be avenged, and justice secured. It came slowly to be recognized, not only as a religious, but as a political truth, that the worst criminal possessed 'reversionary rights of humanity,' and

that it was only by respecting these that there existed the chance, and the hope, that a man might be reformed by punishment, and not thrown back again into the world with only one burning desire to avenge himself for the cruelties which society had inflicted upon him. This is the meaning of the Platonic maxim that the purpose of punishment is "to make men good."

How do we try and 'make prisoners good in English Prisons'? Admitting the necessity for strict regulation to secure order, discipline, and obedience, what are the Reformatory influences in English Prisons? Let us first consider the nature and character of the population to whom these influences are to be applied. True, that they are all human beings, with 'reversionary rights of humanity'; but what an infinite variety of mental and physical states: what an infinite degree of will-power, of self-consciousness, and of self-control, of capacity to realize and to understand. Let us regard them as a College or University of persons of all ages, sexes, and dispositions, and let us not forget that this '*corpus*' on which our reforming influences are to be brought to bear is, for the time being, not subject to all the impulses, stimuli, hopes, rewards and temptations to which persons in free life are subject. It was well and truly said by the Home-Secretary (Mr. Churchill) in the House of Commons, in 1910, "the mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country. A calm, dispassionate recognition of the rights of the accused, and even of the convicted, criminal against the State—a constant heart-searching by all charged with the duty of punishment—a desire and eagerness to rehabilitate in the world of industry those who have paid their due in the hard coinage of punishment: tireless efforts towards the discovery of curative and regenerative processes: unfailing faith that there is a treasure, if you can only find it, in the heart of every man. These are the symbols, which, in the treatment of crime and criminal, mark and measure the stored-up strength of a nation, and are sign and proof of the living virtue in it." There could not be better words than

these to inscribe as a phylactery on the brow of every prison administration throughout the world. They are, indeed, the test of civilization. Do our works in this country correspond to this profession of faith?

Of what does this '*corpus*' consist? In the year before the war there were, in round figures, 90,000 males and 32,000 females sent to prison for periods of less than 6 months: about 7,000 of both sexes sent for long periods over 6 months: about 1,000 sent to penal servitude: and about 6,000 Juvenile-Adults came within the jurisdiction of the Prison authority, either in Borstal Institutions or ordinary prisons. Of these, the percentage of recidivism in Convict Prisons was no less than 87% for males and 70% for females. Of those sentenced to imprisonment, 63% of the males, and 79% of the females had been previously convicted, while no less than 17% of the males and 31% of the females had incurred eleven or more previous convictions. Amongst the young male prisoners, 16—21, sentenced to imprisonment, about 60% had incurred no previous conviction. The system of classification to which all these are subject in prison, is described in Chapter VII.

All are subject alike under general prison rules to the reforming influences of religion. The Chaplain, Priest, or Minister walks noiselessly among them all, gleaning wheat among the tares, and calling back those who will come to the bidding of the divine Imperatives, which if they have been imparted in youth, have, in many cases, almost faded from memory; and who can tell how often in the silent communings of the cell, the spark of life and regeneration may not light again at the voice of the patient, pleading Minister of God. It is not only by the call of the Chapel services, with the hymns and simple prayers, but by the regular visitation of each in their cells, that this spark latent, but not quite extinguished, may rekindle. Do not let us undervalue the quiet, patient, and unwearying task of those who minister spiritually to those in bondage in prison cells. The door is wide open to all creeds and denominations who seek to enter in; and not only to Ministers of religion, but to lay visitors and missionaries who find their prompting to this

work by their desire to realize the holy precept "I was in prison and you visited me." Let us not forget the gentle and comforting influence of our Lady Visitors, and the thousands of forlorn and despairing women, young and old, who perhaps find, for the first time, the voice of sympathy and encouragement, which, like a ray of sunshine, lifts the gloom from off their souls.

In addition to the carefully prescribed orders for the education up to a certain Standard of such prisoners as are shown after examination on reception to be in need of it, there are, too, other means by which "the spark of life and sympathy" can be kindled in prison. Of late years, great progress has been made in the systematic introduction of outside influences in the form of lectures and addresses on lay subjects, calculated to interest and inspire, and to afford matter for reflection, and to mitigate the evil of morbid introspection inseparable from long and monotonous seclusion. The value of such influences is manifested in a wonderful degree by the reference made to them in letters from prisoners to their homes and friends. In many cases, a new outlook on life begins. Men and women who have almost lost their humanity by habitual association with the lower conditions of life,—its cupidities, baseness, and greed—whose minds have never risen above the gratification of sensual desires and impulses, have a new vista of things opened to them. Such 'conversion' may arise quite unexpectedly and fortuitously from some simple story, from some appealing incident in world history, even from simple explanation of the wonders of nature or of science. During the war, the practice was instituted of giving a weekly account of the great events occurring on the battlefields of the world: of the heroic deeds that were done: of the noble sacrifices that were made. There was a unanimous agreement as to the moral value of these addresses; and it has recently been decided to continue the system of imparting news of the world to all prisoners by the same method of weekly addresses, Governors and Chaplains having a discretion as to the subjects they shall select, and the manner in which they shall deliver them. It has often been made a reproach against

the Prison System that prisoners are cut off from all knowledge of outside events, and are thrust back again into the world like children pushed into a dark room, and obliged to grope and feel their way before they can stabilize themselves in the current of normal life. This is no longer the case.

It is another reproach against the system that prisoners are doomed to an unnatural existence by the so-called 'law of silence.' Since 1898, there has been no 'law of silence,' strictly so-called. Previously to that date, the order ran "The Governor shall enforce the observance of silence throughout the Prison." The Committee of 1894 said on this subject: "We think that the privilege of talking might be given after a certain period as a reward for good conduct on certain days for a limited time, and under reasonable supervision, to all long-sentence prisoners, local as well as convict, who have conducted themselves well, and who are not deemed unsuitable for the privilege. The present practice of imposing silence except for the purposes of labour and during the visits of officials and authorised persons, for a period it may be of 15 or 20 years, seems to us unnatural. We recognize that careful supervision would be necessary if this privilege is allowed, but we do not think that the disadvantages which might, perhaps, from time to time, occur would be at all equal to the good likely to result from a partial and judicious removal of this very unnatural restriction." The existing rule made under the Prison Act, 1898, is as follows:—

"The Governor shall, subject to the provisions of these rules, prevent all intercourse or communication between the prisoners, so far as the conduct of the business of the prison or the labour of the prisoners will permit, and shall take care that all intercourse or communication between them shall be conducted in such manner only as he may direct. But the privilege of talking may be given after a certain period as a reward for good conduct on certain days, for a limited time, and under reasonable supervision, to such long-sentenced prisoners as have conducted themselves well, and who desire the privilege and are not deemed unsuitable for it."

Conformably to this rule, a prisoner who desires this privilege (and many do not desire it) and is not unsuitable for it, may, on Sundays, after a certain period of sentence, walk and converse with another prisoner, provided that such prisoner is of the same class, and that, in the opinion of the Governor, the association is not likely to be injurious. Female prisoners and invalids in hospital are allowed a large latitude in this respect.

The object of the regulations is not to impose a strict 'law of silence,' which is reasonably deemed 'unnatural,' but to prevent harmful and profitless gossip, and intercommunication between prisoners, which is not only dangerous from the point of view of order and discipline, but as furnishing a fertile source of corruption. Those who declaim against the 'law of silence,' in the same breath denounce the prison régime as a 'manufactory of criminals,' or as a 'nursery of crime.' In what way could criminals be better manufactured than by allowing a free intercourse, where evil designs and plottings, both for mischief inside and concerted crime outside the prison, would be fostered and encouraged?

Apart from the organized privilege of talking, allowed to well-conducted prisoners, there are many other ways in which their humanity is respected—the brightening of the daily Chapel service, with arrangements for choirs, singers, and instrumentalists taking part in the services: weekly missions in prisons: the delivery of moral and religious addresses by lay persons or members of religious bodies of any denomination: weekly classes, for which prisoners can be taken from labour, and where they may discuss among themselves selected subjects. These classes, referred to in a later Chapter, may be composed of 'Star' and Second Division prisoners, and even ordinary Third Division prisoners may be chosen to participate.

Lectures, with or without magic lantern, may be arranged on lay or sacred subjects, calculated to elevate and instruct prisoners, and containing an undoubted moral purpose and value.

Another innovation of recent years has been the issue to well-behaved prisoners who have completed six months of their sentences, of note-books and pencils, by which

they are enabled in their leisure moments, to make a special study of some particular subject, which is likely either to be of benefit to them on discharge, or where their prospects on discharge might be impaired by the absence of any special means for maintaining the knowledge of any special subject which they previously possessed. Notes also may be taken from books regularly furnished from a well-stocked library; where such literary extracts are deemed to be of value to a prisoner for the improvement of his mental equipment.

By such methods and strivings to find the 'treasure that is in the heart of every man,' I venture to assert that there is, and has been now for many years, what Mr. Churchill described as the "tireless effort towards curative and regenerative processes," and this is the test of the virtue of a prison system, as it is also the test of the degree of humanity in the nation.

Our prison System has, in recent years, been subjected to a very severe test by the fact that, of necessity, penal treatment in prison, primarily designed for the criminal class, has been applied to thousands of individuals in no way belonging to that class, whom it has been necessary to commit to prison under the Defence of the Realm Acts, either as Conscientious Objectors to Military Service, or otherwise, for the safety of the realm. It is not denied that prison rules and regulations press hardly on men and women who, under normal circumstances, would never have become the subject of those punitive and repressive conditions, which are inseparable from the deprivation of liberty by the State. It may be said generally that the restraints of bondage were borne with courage and patience by the great majority of those who, under the special circumstances referred to, came within the jurisdiction of the prison Authority. To persons of refinement and education (as many were), the many restrictions necessary for the safe custody of criminals would naturally seem harsh, unnecessary, and even unnatural. No doubt their experience has given an impulse to the Prison Reformer, who, in his honourable zeal to soften the lot of the unfortunate captive, is apt to overlook the necessity for strict rules and regulations in dealing with a class

to whose habits and instincts he himself is a total stranger. I think that, on the whole, it may be claimed for our Prison System that it has stood the test, and emerged from the search-light thrown upon its inner workings, with at least the admission that the humanities are not neglected: that it is doing its best with the very difficult material with which it deals, to save, encourage, and rehabilitate, when that is possible.

But good influence in prisons, and on prisoners, is a very subtle and mysterious thing. I remember being struck by a passage in the life of 'John Smith of Harrow', lately published. It was as follows: "In the conduct of school-life, it is the personal factor that works for inspiration: no perfecting of methods or machinery can ever replace this." This can be applied literally to prison life; and the first and principal duty of those who administer prisons is in the effort to secure this factor of personality in the selection of the superintending staff, not only of the superior staff—Governors, Chaplains, Medical Officers, and Matrons, but of all the subordinate grades, who are in daily touch with prisoners, and who by their conduct and bearing, and example, exercise a profound influence. We are fortunate in this country in possessing such a staff. It is not given to every man and woman to be capable of combining discipline with kindness: to be at the same time firm and gentle, to be inexorable in securing obedience, while, at the same time, adapting tone and method to the infinite mentalities and moralities to be found in Prison. It is not an exaggeration to say that harshness and abuse of authority are as rare in English Prisons as instances and examples of kind and considerate treatment are abundant; and this is the more admirable when we consider the temptations and difficulties of the task. It is in the upright and manly attributes of our Warder class, typical of the English national character, that a great reforming influence is to be found. Discipline with kindness is the watchword of our Prison Staff, both in the higher and the lower ranks, and I can say confidently, having examined the condition of Prisons in many foreign countries, that in this respect, the 'tone' of English Prisons is unrivalled.

I have been referring so far to general reformatory influence of the Prison régime, so far as it operates generally with regard to adult prisoners, convicted of ordinary crime. There are two special categories of prisoners, where in recent years a notable departure has been made from prison regulations, in the direction of bringing to bear all those special 'stimuli' and encouragements which appeal to any better instincts that may be latent, and may inculcate laws of conduct which shall protect the offender from a relapse into evil-doing. These categories are (1) the Borstal lad, (2) the habitual offender. These represent the opposite poles of criminality—the beginning and the end of a criminal career.

In the Appendix will be found the special regulations for dealing with each, and from their perusal it will be seen that the motive power used is in the appeal to the sense of Honour. This appeal is conducted primarily, and necessarily, through the natural instincts which desire comfort and rewards in ordinary human beings. They are simple enough, but in their simplicity is their value, because they teach the homely lesson, which the older criminal may have forgotten, and the younger not yet learnt, viz:—that by good behaviour and industry, and a proved effort to profit by the encouragement they receive, they may pass from a lower to a higher grade, with increasing privilege and comfort, until in the ultimate stages they are placed entirely upon their Honour, employed in positions of trust, free from supervision, and even outside the walls of the establishment. In this way the re-entry into free life is facilitated: semi-liberty precedes full liberty, and by breaking the abruptness of the change, rehabilitation or re-settlement under normal conditions of life is achieved.

Thus the lesson is slowly learnt that there is a reward for industry and good conduct—not only in what can be gained in material comfort, but that the delicate plant of self-respect, in many cases withered, but not quite dead, can blossom again; and from self-respect follows the respect of others, of those in authority; and after release, of those with whom they associate in the outer world.

Those who have watched these two movements—at

Borstal and Camp Hill—have been struck by their boldness; but in their boldness has been their great success. The Borstal and Camp Hill experiments exactly illustrate the true meaning of ‘prison reform,’ *i.e.*, the building up of character on the basis of strict discipline, obedience, and order, tempered by progressive stages of increasing trust, liberty, and material improvement of status. When to these influences operating inside, while the man or woman is still in custody, is added the ever-watchful care of a highly organized system of help and protection, on which all can rely on discharge, if ready and willing to respond to advice given and help offered, ‘Prison reform’, in the sense of the reform of the individual prisoner, is realized in its best and most practical way. It is not Utopian: it is a fact which can be verified by the records of the Borstal and Central Associations, which deal on discharge with these two special categories. It is not achieved by newspaper articles or angry denunciation of the existing system, or by the formulation of abstract theories concerning prison treatment. It is achieved by “personality,” inside and outside the penal institution—personality stimulated by a lofty conception of duty to God and man. To deny these reforming influences in English Prisons is to misrepresent wilfully, and in ignorance of the facts, the great and good work that is being done.

As to the future, there seems to me to be three directions in which those who are pressing for prison reform might usefully proceed:—

1. The organization of Probation on large and well-considered national lines.
2. The application of some of the principles of Preventive Detention to our Penal Servitude system.
3. The co-ordination, with a view to the prevention of crime, of all organized effort, collective and individual, now existing in this country, and of which most of the value is wasted from the absence of unity of aim, and of mutual co-operation.

1. Though Probation is ancillary to the Prison System, and is closely allied to the actual administration of justice in the Courts of law, its method and working must be of profound interest and importance to all who desire to find alternatives, consistent with the due assertion of the law, to commitment to prison. This, as is so often said, should be the last and not the first resort. Custom, routine, and the fatal ease, and saving of trouble to all concerned, has, in the past, induced the tendency to regard the warrant of commitment to prison as the ordinary and only expedient for satisfying the claims of Justice. It is only of late years that the successful operation of Probation, or *sursis á l'exécution de la peine* in foreign countries, and notably in some of the States of America, has awakened a lively and growing interest in this method of finding an alternative to imprisonment; and here we have to steer a wise and prudent course between the Scylla of harsh infliction of a '*peine déshonorante*', which imprisonment for a few days really is, and the Charybdis of undue leniency. This is the function of the Magistrate: on him depends a successful working of the system, and he must have a deciding voice as to its application. But consistently with the free authority and discretion of the Court, it ought to be possible to create a national system, for which the Lord Chancellor, or Secretary of State, as Chief of the Magistracy, would be responsible. I would not advise the imposition of any official system independently of the Courts, but only that the political heads of the Judiciary should take steps to satisfy themselves that Probation, as a system, is working efficiently at every criminal court in the country, before whom offenders of all ages, liable to the penalty of imprisonment, are brought. It is the function of the Secretary of State to take steps to satisfy himself that the Police Forces of the country are working efficiently, without in any way interfering with the discretion of the local Police Authority in the management of their respective forces. This is done by a system of State-Inspection, and a certificate of efficiency when all is reported well. The same system might be applied to Probation. State control would only be exer-

cised through an Inspector-General at Whitehall, who would be assisted by Chief Probation officers in the various judicial areas. These would be paid by the State, and a system could be devised by which the State granted a subsidy in aid of the salaries of the general body of Probation officers, who would be appointed locally under regulations approved by the Secretary of State. Such aid would be dependent, as in the case of Police, on an annual certificate of efficiency. By such means an admirable 'Salvage Corps' would be created. By 'Salvage' I mean a body of devoted men and women who, from knowledge of the character and history of individual cases, would be in a position to furnish the Courts with information and suggestions which would enable them to exercise a wise discretion whether or not in any case Justice would be satisfied by granting a '*sursis*', subject to satisfactory conditions and guarantees, to the penalty of imprisonment. Such a system would not conflict with the full authority and discretion of the Court, and would, at the same time, prevent Justice from striking blindly at the offender, by being in possession of material facts, which, under the present system, are often concealed from it.

Such a system would be a striking advance on the road of the individualization of the offender, which is the aim and purpose of the modern penal system in all civilized countries.

2. The principle of Preventive Detention, which might perhaps be extended with advantage, but with great care and prudence, to our Penal Servitude System, is that expressed by the Advisory Committee (Section 14 (4) of the Prevention of Crime Act, 1908, Part II), and the provision for After-care (Section 15 of the same Act).

Long sentences of penal servitude are now reported periodically to the Home Office for review and consideration. Without impinging in any way on the authority of the Court, which fixes the term of the sentence, it might be arranged that such reports should be accompanied by a report of an Advisory Committee, set up at each convict prison, whose opinion would be of value to the Secretary of State in deciding whether conditional licence under

adequate safeguards could be granted, or whether the stern penalty of a sentence of penal servitude having been sufficiently expiated, there might be a commutation of the sentence to the less rigorous conditions of Preventive Detention. The great success which has attended the work of the Advisory Committee at Camp Hill seems to justify the extension of the principle, quite consistently with a due and exact regard for the interests of Justice and the protection of society.

Section 12 of the Prevention of Crime Act, 1908, gives power to the Secretary of State to commute in certain cases to Preventive Detention. An Advisory Committee could fitly advise as to the occasion for the exercise of this power.

3. In addressing the Central Committee of Aid Societies last year, I ventured to propose the foundation of a National Society for the Prevention of Crime. I was led to this proposal by the experience which has come to me in watching the operation of the great network of effort now employed in diverse capacities throughout the country, not only in the aid of prisoners discharged from ordinary or local prisons, but in the supervision of Borstal, Penal Servitude, and Preventive Detention cases through the admirable machinery of the Borstal and Central Associations. In addition to these recognised, and more or less State-aided, instruments for dealing with the actual offender, we have the preventive agencies for the supervision of cases discharged from Industrial and Reformatory Schools, as well as the large field of care and tutelage for those placed on Probation,—all these methods for after-care and prevention are co-ordinated with the help given by other benevolent or religious Societies, thus forming a compact whole of altruistic effort of what is known in France as '*Patronage*', or a National life-saving apparatus.

My idea was to stabilize and unify all this somewhat unconnected effort by the formation of a Central Council, on which all persons or societies working in the field of reclamation, either of young or of old, could be brought, so to speak, under 'one umbrella'.

There would be Committees of such Central Council in

every selected area or district, on which would be represented the local Aid Society, the local Probation officer, the Associate of the Borstal and Central Associations, agents of the Reformatory and Industrial School Department, and any local representatives for dealing with the care and employment of the young.

To such a body would be affiliated the associations which exist in many parts of the country for the care of the mentally defective.

There is a growing appreciation on the part of Magistrates, and the public generally, of the close and often undiscovered association between crime and mental deficiency. Steps are now being taken, notably in the Midlands and the North of England, for establishing a co-operation between the Police Authority, the Courts of law, and Committees of the County Council, working under the Mental Deficiency Act. If such co-operation could become general throughout the country, a new and formidable 'preventive' against many acts of petty and repeated lawlessness would be created, and there is little doubt that many persons of both sexes who hitherto have spent their lives in and out of Prison—the despair of the Courts, a source of perpetual trouble to Police, and of nuisance to their neighbours, would, on inquiry, and mental observation, be found to be 'irresponsibles', and proper subjects for medical care, rather than the grim severity of ceaseless and useless imprisonment. The long and mournful roll of incurable recidivists would cease to haunt our prisons, and public places; and under Institutional care, would, at least, be removed from evil-doing, if they did not regain, under medical care, their opportunity for re-instatement in normal industrious life.

It is in these directions that I think that the hope of dealing effectively with the ever-present criminal problem lies. Let those who are anxious to get to the heart of this problem know that the solution lies, not in abstract theories of so-called Prison Reform: not in academical discussion of the best prison system to adopt: not in the old vexed controversies of the comparative value of the cellular or associated plan, but in patient observation of every human being, while in the custody of the State for

an infraction of its laws, and in aiding the reconstruction of a life that has failed, by the adoption of a system of After-care, on the lines I have described, or, which is far better still, in endeavouring to create such a net-work of preventive work throughout the land, that, as a nation, we may rejoice in being able to feel that, at least so far as human effort can avail, Prison, with all its consequences, shall be the last and not the first resort, which, in the absence of well-organized preventive and curative measures, it has too often been in the past.

CHAPTER II.

THE PRISON COMMISSION: OFFENCES, AND PUNISHMENTS.

THE prisons in England and Wales are divided into (*a*) Convict, and (*b*) Local.

(*a*) Convict Prisons were created specially to contain convicts under sentence of transportation prior to, or in lieu of, removal to the penal colonies, and were constituted by special Acts of Parliament passed from time to time, which provided for their separate administration and inspection. In 1850, they were all placed under a Board of Directors who exercise all the powers formerly vested in the various bodies who managed them.

(*b*) Local Prisons.—By the Prison Act, 1877, county and borough prisons, which formerly belonged to the local authorities, were transferred to and vested in the Secretary of State, a permanent Commission, not exceeding five members, being created for the purpose of aiding the Secretary of State in carrying out the provisions of the Act.

In 1878, when the local prisons were thus transferred, there were, therefore, a Board of Directors of Convict Prisons, consisting of four members (including the Chairman) and a Board of Commissioners, consisting of four members (including the Chairman). The then Chairman of the Directors was appointed also Chairman of the Commissioners; but, except to this extent, at that time no further amalgamation took place, each class of prisons being administered separately. The two Boards still have separate legal existence, but under the Prison Act, 1898, every Prison Commissioner is, by virtue of his

Office, also a Director of Convict Prisons. The Boards are now, in fact, if not in law, amalgamated.

The control of all Prisons is thus vested in a body of Commissioners, who act subject to the control and authority of the Secretary of State, who is himself directly responsible to Parliament for the whole administration.

In addition to the Convict and Local Prisons, the Commissioners are also responsible for the administration of the Institutions established by the Prevention of Crime Act, 1908, for dealing with :—

(a) young offenders, 16-21—Borstal Institutions.

(b) habitual criminals under 'Preventive Detention.' They are also responsible for the care and control of Habitual Inebriates sentenced under the Act of 1898; but, as pointed out later in dealing with the question of Inebriety, there are, at the present time, no inmates in custody.

Offences against the criminal law can be classed generally into two divisions—Indictable (*i.e.* tried on indictment before a Superior Court): Summary (*i.e.* tried before a Court of Summary Jurisdiction). The Superior Courts are (1) Assizes: (2) General Quarter Sessions. (1) The *Assize Courts* are itinerant criminal tribunals created by Commission to Judges of the High Court to try prisoners presented for trial by the grand juries for the several Counties in which the Assize is to be held. They can try any indictable offence whatever, and are the most important of criminal Courts of first instance. In London, a special Court, known as the Central Criminal Court, has been created by Statute, having the same powers as Courts of Assize, and sits monthly. (2) *Quarter Sessions*. These are held once a Quarter, and were originally meetings of the Justices of the Peace of a particular County. More recently, certain cities and boroughs have obtained the privilege of a local Court of Quarter Sessions, presided over by a Recorder, who must be a barrister. These Courts can try all indictable offences except such felonies as are punishable by Penal Servitude for Life or by Death.

Summary Justice is administered generally by Petty Sessional Courts composed of unpaid local Magistrates, not necessarily of legal experience, nominated by the Lord Chancellor; but in the Metropolis and other Cities and populous places, *e.g.*, Birmingham, Leeds, Liverpool, *etc.*, by paid Stipendiaries who are barristers of standing and repute, appointed by the Crown. The great mass of petty offences against the law is dealt with by these tribunals. Of late years, the powers of the Summary Courts have been extended so as to include certain indictable cases. Thus, young persons under 16, when charged with any indictable offence whatever, except homicide, may be dealt with summarily, subject to certain conditions; also adults, when charged with various forms of larceny, theft, embezzlement, &c., where the value of the property stolen does not exceed twenty pounds.

The punishments that the Superior Courts can impose are, generally speaking, penal servitude for grave offences, and ordinary imprisonment for lesser offences. The special penalty of commitment to a Borstal Institution, or to a State Inebriate Reformatory, may only be imposed by a Superior Court. Superior Courts have, in addition, the power to order Whipping in the case of Robbery with Violence, and of persons deemed to be Incorrigible Rogues under the Vagrancy Act, and for the offence of Procuration, under the Criminal Law Amendment Act, 1912. They have power also to order a person to be placed under the Supervision of Police for a fixed period after his punishment. In the Summary Courts the principal punishment is by fine. According to the Judicial Statistics for 1913, fines were inflicted in about 88 per cent. of the cases convicted for petty offences. Where a fine is not paid, imprisonment is generally ordered to take place in satisfaction in lieu of the fine. Out of 128,686 persons committed to Prison by the Summary Courts in 1913-4, no less than 74,461 were imprisoned in default of payment of fine, the amount of imprisonment being regulated by statute in proportion to the amount of fine. Under the Criminal Justice Administration Act, 1914, it is now obligatory on the part of the Courts to allow time in which to pay the fine imposed. In 1918-19, the number

of persons received into prison in default of payment had fallen enormously, only 5,264 being received, or about 2 per cent. of the total sentenced by the Courts to pay a fine, as compared with 15 per cent. in 1913-14. Though the maximum term which may be imposed by Summary Courts is limited to six months, in practice the great majority of the sentences awarded do not exceed three months.

There are also the Juvenile Courts which deal with offenders under sixteen, as to which particulars are given in a later chapter.

There is power also under the Probation of Offenders Act, 1907, for any Court (either Superior or Summary) to release an offender on probation—the former, in lieu of imposing a sentence of imprisonment, or in the case of the latter, without proceeding to conviction. The offender may be discharged conditionally on entering into recognizances to be of good behaviour, and to appear for sentence or conviction at any time within three years. The Court may, in addition, order the offender to pay damages for injuries, or compensation. A recognizance under this Act may contain a condition that the offender shall be placed under the supervision of a Probation Officer, and other conditions may be that he shall not associate with undesirable persons, and that he shall abstain from intoxicating liquors, and, generally, that he shall lead an industrious life. Details as to the operation of the law will be given in a subsequent chapter.

Previously to 1907, there was no Court of Criminal Appeal. The general principle had been that in criminal cases no appeal was allowed to either party on any question of fact; the only resource for a wrongfully convicted man was to petition the Secretary of State. A prisoner now has an absolute right to appeal on any question of law, and, if leave be obtained, on any question of mixed fact and law. He also has the right to appeal against the sentence passed on him. Neither the Crown's Prerogative of Mercy, nor the powers of the Home Secretary to institute such inquiry as he may think fit, are affected by the Act.

The penalty of death is now practically restricted to cases

of murder, although permitted by law in the case of treason, and certain forms of piracy and arson. The average number of capital sentences for the last ten years has been 25, and of these, 13 suffered the extreme penalty of the law.

I propose to commence the Study of the English Prison System by a short survey of the history of Penal Servitude,—an essential preliminary to an understanding of the System as it exists to-day.

CHAPTER III.

THE HISTORY OF PENAL SERVITUDE.

PENAL Servitude was substituted for Transportation in the year 1853. It will be necessary to trace shortly the history of Transportation, so that the features of Penal Servitude, as they exist to-day, may be understood. Transportation is first mentioned as a punishment under an Act passed in the reign of Charles II, which empowered Judges to exile for life the moss-troopers of Northumberland to any of H.M. Possessions in America. It is stated that in the Bloody Assizes of 1685 Judge Jeffries sent no less than 841 persons to Transportation. It appears to have been the practice to subject these transported offenders to penal labour, and to employ them as slaves on the estates of the planters. An Act was passed in the reign of George I., giving to the persons who contracted to transport a property and interest in the service of such offenders. A great want of servants in the Colonies is one of the reasons assigned for this mode of punishment. In spite of this, however, many of the Colonies, especially Barbadoes, Maryland and New York, objected to having their wants supplied by these means, and with the War of Independence, transportation to America ceased.

It was about this time that, under the influence of Blackstone, Howard, and others, what was known later as the Penitentiary System for the treatment of Crime began to be considered in England, and an Act was passed in the year 1778 for the introduction into the Prison régime of the three factors on which the so-called Penitentiary System rested, *viz.*:- separate confinement, hard labour, and instruction—secular and religious. Although the System was commenced in good earnest in a few places, *e.g.*, Petworth and Gloucester, under the auspices of keen prison reformers

(at these places, the Duke of Richmond and Sir G. O. Paul) it was not till some fifty years later that general interest was attracted by the experiments being made in the United States, where the rival Systems—"Cellular" and "Associated," as carried out at Philadelphia and Auburn, respectively, have become historical.

Although historically our Prison System may be said to date from the Prison Act, 1778, a long, dismal history of ill-considered administration was destined to intervene before the principles of penal science, as now understood, obtained expression. It is probable that the discovery of Australia by Captain Cook was the "*mésure de circonstance*" which determined the prison history of this country for nearly fifty years. The easy methods and means of transportation which this great Colony afforded, relieved Parliament of the necessity of inventing any new and wise methods for the punishment of crime. The system instituted in 1788 for the transportation of offenders to the Australian Colonies was regularly organized and extensively acted upon up to 1840. It could not, however, survive the condemnation of the Parliamentary Inquiry of 1837. It was condemned absolutely, as being unequal, without terror to the criminal class, corrupting to both convicts and colonists, and extravagant from the point of expense. This condemnation of the Colonial System followed closely on another Inquiry of the previous year into the Hulks, and the System of Imprisonment at home.

Transportation to New South Wales was abolished by Order in Council in 1840, and in the case of those still transported to Van Dieman's Land, a "progressive stage" system was instituted, under which convicts were able to gain a succession of privileges in different classes, terminating either in a ticket-of-leave in the Colony, or in a conditional or absolute pardon. This plan, however, failed, as the benefits of a gradually improving condition could not be realized from the fact that the supply of convicts was greater than the demand, and so they could not be absorbed when they had qualified for private service or employment. There was no employment to prevent these men from starving, and the Government were obliged to furnish subsidies and work. By 1846,

accounts which had been received of the moral degradation of the convicts, crowded together in depôts, were of so alarming and deplorable a nature, that public opinion was deeply roused, and the two Ministers who were then responsible (Lord Grey at the Colonial Office and Sir George Grey at the Home Office) took the matter in hand. Transportation was stopped for two years, and it was generally agreed that it could not be resumed on the former plan. It was arranged that all convicts should undergo (1) a limited period of separate confinement at home, the advantages of which as a basis of discipline had been fully proved at Pentonville Prison: (2) that they should then be sent to associated labour on Public Works in this country, or at Gibraltar, and Bermuda, and (3) thence they should be removed on Ticket-of-Leave to any Colony disposed to receive them.

The history of Pentonville Prison is an essential guide to a clear understanding of the actual basis of our Penal Servitude, as well as of our ordinary Prison System. I have already stated that the Penitentiary idea, of which the basis is separate or cellular confinement, had found expression in an Act of Parliament of 1778, and that the idea had, owing to many circumstances, remained obscure till it was revived in the United States of America. In the second quarter of the last century Mr. Crawford, an Inspector of Prisons appointed under the Prison Act, 1824, (which had again endorsed the principle, although little or no effect was given to it) was sent to America to report on the question. Papers drawn up by himself and Mr. Russell, also an Inspector of Prisons for the Home District, were submitted to Parliament, and were widely discussed. In 1837, Lord John Russell, the then Home Secretary, issued a Circular to the Magistracy expressing his own conviction on the efficacy of separate cellular confinement, as a means both for the punishment of crime, and for the reformation of the offender. It was then decided to erect Pentonville Prison as a model Prison on the cellular plan for the purpose of practically working out a new system of Prison discipline. The Prison was occupied in December 1842. Commissioners were appointed to superintend the experiment, drawn from leading

members of the social and public life of the community. Two Medical Commissioners were also appointed to watch narrowly the effect on the health of the prisoners. The period of separate confinement was limited to eighteen months. The Second Report of the Commissioners expressed the opinion that the adoption of separate confinement, as established at Pentonville Prison, promised to effect a most salutary change in the treatment of criminals, and was well calculated to deter, correct, and reclaim the offender; and in their Fourth Report they stated that the Separate System was safe and efficient, and that generally the moral results of the discipline had been most encouraging, and were attended with a success which was without parallel in the history of prison discipline, and that it was the only sound basis on which a reformatory discipline could be established with any reasonable hope of success.

In virtue of these strong and unanimous opinions, the principle of Separate Confinement for the first stage of Penal Servitude was established, the period in the first instance not to exceed fifteen or eighteen months. At the end of that period the principle of employing convict labour on national works of importance was adopted, as affording, in connection with the reformatory influences brought to bear in separate confinement, the best means of training the men to those habits of industry which would fit them to earn an honest livelihood on discharge, either at home or abroad. The abolition of the Hulks was at the same time decided upon. The employment of a large body of convicts on what was called the "Public Works" System commenced a new era in the history of Prison Administration in England. It was a combined system applicable to all convicts: (1) a fixed period of separate confinement: (2) employment in association on Public Works at home for a period apportioned to the term of the sentence: (3) disposal with a Ticket-of-Leave in the Colonies. It was ordained that a convict "shall not pass out of the custody of the Government in the Colony until he shall be engaged, for at least a year, for service with some private employer. If suitable service cannot be obtained, the convict shall be employed by Government." The condition of the Ticket-of-Leave was that "the

holder is required to remain in a particular district, must be at his dwelling from 10 o'clock at night to day-break, and must report himself periodically to the Police Officer of the district." This combined system of home discipline and colonial disposal depended for its success (1) on the character and conduct of the convict being such, while under the discipline of a Public Works Prison, that remission could reasonably be accorded with a view to expatriation: (2) that the Colony should be willing to receive convicts on Ticket-of-Leave, *i.e.*, in a state of semi-liberty. In fact, convicts were able to render themselves ready for transportation after serving less than half the period of their sentence, *e.g.*, two years, in a seven years' sentence, two-and-three-quarters in ten years, and so on. The claims to this remission were carefully estimated from daily records of conduct and industry kept by the subordinate officers. No Mark System, as now understood, was then in operation. A system of Badges (worn on the arm of every prisoner) was the principal incentive to good conduct. As soon as the letters "V.G." (Very Good) were inscribed on the Badge, he became eligible for a Ticket-of-Leave. Gratuities were also credited to well-conducted convicts for conduct and industry, respectively. There were three degrees of conduct, carrying 6*d.*, 4*d.*, and NIL per week. There were three degrees of industry—VERY GOOD, GOOD, and NIL, carrying 9*d.*, 4*d.*, and NIL.

The first prisoners were embarked from Portland in 1849. Favourable accounts were received of their conduct from Van Dieman's Land and Australia. The System, however, which was bearing good fruits, only remained in operation till 1852, when Van Dieman's Land refused any longer to be made the receptacle for the disposal of malefactors from the Mother-Country, and the cessation of Transportation, and the release of so many desperate characters at home, caused the gravest apprehension in the public mind. There were at that time about 8,000 male convicts in the Convict Prisons in England, and at Bermuda and Gibraltar. The question arose whether the men should be released perfectly free, as had previously been the case of thousands discharged from the Hulks, or whether the plan of granting a Ticket-

of-Leave on a principle which had long been established in the Colonies, should be adopted. The Penal Servitude Act, 1853, represents the decision of Parliament on the matter. That Act substituted sentences of Penal Servitude for those of Transportation, four years of the one being deemed equivalent to seven years of the other; and the Secretary of State was empowered to grant to a convict a licence to be at large during the unexpired portion of the original sentence of Transportation. Public opinion remained, however, restless and dissatisfied with the discharge of so many Ticket-of-Leave holders in the Mother-Country, and a formidable public agitation led to the appointment of a Select Committee of the House of Commons in 1856. The Penal Servitude Act of 1857 embodies their recommendation, *viz.*:—that the terms of Penal Servitude should be extended to a period corresponding with former sentences of Transportation, and that every punishment by Penal Servitude should, in addition to separate Imprisonment and labour on Public Works, include a further period capable of being abridged by the good conduct of the convict himself, *i.e.*, that there should be a remission of part of a sentence of Penal Servitude in the case of those convicts whose conduct in Prison was such as not to deprive them of the indulgence. The portion to be remitted varied from one-sixth in the case of a three years, or minimum, sentence, to one-third of a sentence of fifteen years and upwards. The principal punishment for serious crime became then what it has remained ever since, and involves a triple responsibility on the part of the Judge who passes the sentence, the Secretary of State who fixes the maximum amount of remission, and the Prison Authorities whose duty it is to keep a just account of the conduct and industry which will enable them to reckon the amount of remission to be granted.

What has since been known as the Progressive Stage System was introduced by regulations passed subsequently to the Act of 1857. They prescribed a period of nine months in separate confinement, the remaining term of the sentence being divided into three stages of discipline, representing three equal portions of the residue of the

sentence. On passing from the first to the second Stage, prisoners were rewarded in the way of extra gratuities, badges, &c. On arriving at the third Stage, there was a further increase of privileges of the same nature, and a different dress from that of ordinary convicts was worn.

The object aimed at was to devise a useful system of progressive reformatory discipline, based upon a nice adjustment of the elements of hope and repression, but subject to the principle that the punishment due to the crime is the primary object, and that, consistently with that, no effort to reform should be neglected.

This idea of progressive reformatory discipline had, therefore, an entirely English origin, and was the result of the tireless efforts made at that time by Sir Joshua Jebb, and his colleagues, to devise a system for the punishment of serious crime in lieu of Transportation. It retained such features of the Colonial System as it was practicable to engraft on the system of Penal Servitude at home, although this latter involved a longer term of detention in actual custody with diminished prospect of employment on discharge.

It betrays a curious ignorance of the English System that the origin of this idea has become historically attributed to an Irish source. The principle which had been established with so much care at Pentonville and Portland was introduced into Ireland by Sir Joshua Jebb himself, when, in consequence of the number of convicts in that country rising from 700 to two or three thousand, he was ordered by the Government to proceed to Dublin, and advise the Prison Authority there with a view to the adoption of the Progressive System. The English Rules were, as far as possible, applied at Spike Island and at Mountjoy. In 1850, a few years later, Sir Joshua Jebb was again ordered by the Government to proceed to Ireland, but as he was unable to go, Captain Knight, Governor of Portsmouth Prison, took his place, with the result that a Board of three Directors was formed, (of which Captain Knight was a member) who entered upon their duties in 1854. Captain Crofton, Chairman of the Board, stated in evidence before a Committee of the House of Commons that he had followed out the English System,

and in the Report for 1855 it is stated that the System of Progressive Classification continued to have an excellent effect. The only difference in the Irish System was the adoption of an Intermediate Stage before discharge followed by Police Supervision, both the conditions having been established as elements of the English System in the Colonies. This part of the Colonial System was not, however, adopted in England, as the Government naturally shrank from the great and novel responsibility of finding employment in England for discharged convicts. Ireland, however, with its rural and scattered population, its demand for labour, and its centralized police, afforded facilities both for securing employment, and, with it, police supervision, which should not be hostile, as a system of *espionage*, but friendly in its character, and from knowledge of local circumstances, calculated to promote the welfare of the convict. The relatively small number of convicts in Ireland rendered easy the introduction of the so-called Intermediate System, which was simply the collection of the better-disposed convicts previous to their discharge in centres under easy discipline, with a view to disposal under favourable conditions. The strong belief which existed at the time that the so-called Irish System was producing results which were unprecedented was due to the economic history of the country. During the years when the system was introduced, it happened that Ireland was passing through a crisis without parallel in the history of Europe. The crisis included a famine, a pestilence, an exodus, a transfer of large areas of land to a new proprietary, and the introduction of a new Poor Law. The population was decimated three times between 1845 and 1861. Towards the end of this period, work became plentiful, and wages rose as much as one hundred per cent. At the same time, in England the population was increasing, work was difficult to find, there was no centralized police as in Ireland, and any comparison between the results of the two Progressive Systems would have been valueless, the conditions being so entirely different.

Owing to an increase of serious crime in the early 'sixties, public attention was again called to the system of punishment in force, and a Royal Commission was

appointed to enquire into the operation of the Penal Servitude Acts. It was found that the late increase in crime coincided in point of time with the discharge of convicts sentenced for short terms, *i.e.*, for three years under the Act of 1857; and it was proposed that the minimum term of penal servitude should be increased, and that longer sentences should be passed on persons guilty of habitual crime. The Commissioners pointed also to defects in the methods of identification: they objected to re-convicted convicts not receiving remission, and believed that it would be more effectual to pass long sentences on re-convicted prisoners than to remove the chief inducement to industry and good conduct. They found fault with the Regulations made under the Act of 1857, on the ground that they did not indicate to convicts with sufficient clearness that remission could only be earned as a reward for industry and conduct. They objected to giving credit for general good conduct as well as for industry, on the ground that the mere abstaining from misconduct gives no just claim for reward. They advocated the adoption of the Mark System as introduced into Australia by Captain Maconochie, and, subject to a considerable remission of punishment earned under this system, they were in favour of longer sentences. They came further to the opinion that the Irish System of Police Supervision should be adopted in England. They thought that the sentence of Penal Servitude should be for not less than seven years, subject to the concession that the third of a period would be remitted under the operation of the Mark System, when the highest industry had been maintained. They were in favour of continuing Transportation to Western Australia: they pronounced against the high rates of gratuities which convicts in England were entitled to receive, and regarded favourably the system by which convicts in the Irish Intermediate Prisons, and the "road parties" in Western Australia were allowed to spend a weekly portion of their earnings in procuring for themselves certain indulgences. Appended to the Report of the Commission was a Memorandum by Lord Chief Justice Cockburn, which has become historical as laying down the principles which, in his opinion, ought to be

observed in the punishment of offenders, *viz* :—

“These purposes are twofold ; the first, that of deterring
“others exposed to similar temptations from the commis-
“sion of crime ; the second, the reformation of the crimi-
“nal himself. The first is the primary and more important
“object : for though society has, doubtless, a strong interest
“in the reformation of the criminal, and his consequent
“indisposition to crime, yet the result is here confined to
“the individual offender, while the effect of punishment,
“as deterring from crime, extends not only to the party
“suffering the punishment, but to all who may be in the
“habit of committing crime, or who may be tempted to
“fall into it. Moreover, the reformation of the offender
“is in the highest degree speculative and uncertain, and
“its permanency, in the face of renewed temptation, ex-
“ceedingly precarious. On the other hand, the impression
“produced by suffering, inflicted as the punishment of
“crime, and the fear of its repetition, are far more likely
“to be lasting, and much more calculated to counteract
“the tendency to the renewal of criminal habits. It is
“on the assumption that punishment will have the effect
“of deterring from crime that its infliction can alone be
“justified, its proper and legitimate purpose being not to
“avenge crime but to prevent it. The experience of man-
“kind has shown that though crime will always exist to
“a certain extent, it may be kept within given bounds by
“the example of punishment. This result it is the business
“of the lawgiver to accomplish by annexing to each
“offence the degree of punishment calculated to repress
“it. More than this would be a waste of so much human
“suffering ; but to apply less out of consideration for the
“criminal is to sacrifice the interests of society to a mis-
“placed tenderness towards those who offend against its
“laws. Wisdom and humanity, no doubt, alike suggest
“that if, consistently with this primary purpose, the
“reformation of the criminal can be brought about, no
“means should be omitted by which so desirable an end
“can be achieved. But this, the subsidiary purpose of
“Penal Discipline, should be kept in due subordination
“to its primary and principal one. And it may well be
“doubted whether, in recent times, the humane and

“praiseworthy desire to reform and restore the fallen criminal may not have produced too great a tendency to forget that the protection of society should be the first consideration of the lawgiver.”

The views of the Lord Chief Justice on the value of Police Supervision, and Ticket-of-Leave, and the aspect from which he regarded the value of the Irish Intermediate System attracted much attention at this time. He stated :—

“Those who advocate remission, make supervision an essential element in their system, as necessary not only for the security of the public, but also for the protection of the convict himself when first set free and exposed anew to temptation. But it may be questioned first, whether supervision is practicable; secondly, whether, if practicable, it is not more mischievous than beneficial. There can be little doubt that by change of name, and change of locality, which, as we have just seen, is largely resorted to for this purpose, holders of Tickets-of-Leave can without much difficulty elude the vigilance of the police; and no adequate means have been suggested for satisfactorily overcoming this difficulty. But a far more serious objection arises from the fact that, at least in this country, any supervision by the police, or other officer appointed for the purpose, would be fatal to the convict's chance of employment, on which his continuing in the right course, if so disposed, so materially depends. Police supervision is incompatible with the concealment of the man's antecedents, while, in the great majority of instances, the well-doing of the convict must depend on his secret being kept. Few masters would employ a man who was known to be a convicted felon, and an equal obstacle would be found in the disinclination of other labourers to be associated with one thus degraded. It would seem, therefore, that if remission is to be continued, it would be better that it should not be attended by any attempt at supervision, the beneficial effects of which, from the difficulty of carrying it out, are doubtful, while its mischievous tendency, so far as relates to the welfare of the convict, is apparent. It would seem to be better to leave the liberated convict to

“take his chance of finding employment and making his way as he can, than to fetter him with a clog which may prevent the possibility of honest exertion.”

It was in consequence of the Report of the Commission that in 1864 an Act was passed raising the minimum sentence of Penal Servitude from three to five years. The Act also authorized any two or more Justices of the Peace to exercise powers of corporal punishment for offences against Prison discipline, hitherto vested exclusively in one of the Directors, the Commission of 1863 having expressed the opinion that acts of violence committed by convicts were not punished with sufficient promptitude or severity. This measure also enacted the principle that a convict on licence should report periodically to the Police of the district in which he should reside, and any failure to comply with the conditions imposed in the licence might result in its forfeiture, and in the re-committal of the holder to Prison.

As a result of this measure, the Progressive Stage System, through which convicts passed on their road to remission, was further defined and elaborated, and the Mark System as now in operation was instituted. Every convict was required to earn by actual labour a certain number of marks, proportioned to the length of his sentence, to enable him to purchase, as it were, any remission of sentence, or to advance from the lower to the higher class. Although misconduct would involve a forfeiture of marks, the marks are allotted simply for actual industry, as shown by the amount of work done, and are checked by the actual measurement of the work, where such is possible. The Directors, in their Report for 1865, comment on the introduction of the system as follows :—

“The value of the Mark System when honestly administered is, that it gives a tangible idea to the convicts of the value of their daily labour, and our endeavour has been to impress upon them that they must earn these marks to gain the advantages held out to them of remission of sentence and advancement in classes. Like any other system of recording the conduct and industry of convicts, the Mark System requires careful watching, to prevent it from degenerating into mere routine, and to avoid favouritism

“or intimidation. We have under existing circumstances
 “the advantage that the convicts are employed in important
 “Public Works, which admit of accurate measurement and
 “valuation; and we think the checks we have adopted are
 “sufficient to guarantee that whatever the convicts do earn
 “will be earned by fair labour accompanied by good
 “behaviour. It is very satisfactory to us to state, that
 “although none of the officers of the English Convict
 “Prisons had any previous experience of the working of the
 “Mark System, which might naturally be expected to be
 “regarded with some kind of suspicion, its success has far
 “exceeded our expectations. The Governors and the
 “subordinate officers have devoted themselves very zeal-
 “ously to master the principles and details of the Mark
 “System, and have entered into the spirit of the measure
 “with great zeal, and the testimony of the Governors
 “to the beneficial results on the labour and industry
 “of the convicts is very gratifying. The convicts
 “themselves take a lively interest in the account of their
 “marks, which they watch with earnestness, and fully
 “avail themselves of the privilege of bringing before the
 “Directors any grievance they think they have respecting
 “them.”

The Mark System, as then introduced, has remained in operation ever since, and may be regarded as the fundamental principle of the Penal Servitude System. We have not at our disposal to-day the same amount of “Public Work,” strictly so-called, *i.e.*, buildings, harbour-making, &c., and the allocation of marks cannot be checked to the same degree by actual measurement of work done, but the record of daily industry, whatever the employment may be, is strictly kept. The gain or loss of marks, either for remission or stage, constitutes the reward or punishment lying at the root of convict discipline. As will be explained in a later Chapter, this has been applied also to the Local Prison System, *mutatis mutandis*, in common with many other features in the Convict Prisons, which, previous to the Prison Act, 1877, were alone under the direct control of the Government.

At the same time a considerable reduction was made in the large amount of gratuity paid to convicts, and the

maximum earnable was reduced to £3, irrespective of length of sentence, with power to grant a further bonus of £3.

The changes resulting from the Royal Commission of 1863, and the Penal Servitude Act of 1864, were generally satisfactory as tested by the number of persons sentenced to penal servitude. The Authorities reported in 1871 that there was good reason to believe that great progress had been made in solving the difficulty of forming an effective system of Secondary Punishment. Although in that year there was a considerable increase in the number of reconvictions to penal servitude, this was due to an alteration in the law brought about by the Habitual Criminals Act, 1869, and the Prevention of Crimes Act, 1871, by which greater facilities were given to the Police for the detection of habitual criminals, the proportion of recommitments depending more on the activity of the Police and means of identification at their disposal than on any changes in the Prison System. The Act of 1871 provided that a person convicted a second time on indictment might be sentenced to be subject to Police Supervision for a number of years, not exceeding seven, after the expiration of his sentence. During such period he is required to notify his place of residence to the Police, and to report himself to them monthly, in default of which he is liable to imprisonment. The Act also imposed similar obligations and penalties on persons released from penal servitude, and, further, if it were proved that the convict was living dishonestly, he would be liable to be sent back to prison to undergo the remainder of his unexpired portion of penal servitude. The effectual supervision of a discharged convict, which resulted from these provisions, began to show itself in an increase both in the number of sentences to Penal Servitude and in the number of reconvictions. In the year 1876, these latter had nearly doubled during the past two decades, rising from 11 to 21 per cent.

At this time it appears that some disquietude arose in the public mind, both with regard to the alleged severity of discipline to which Penal Servitude prisoners were subjected, and also with regard to the contamination due to the association of all classes of convicts on public works.

There was then no classification of prisoners sentenced to Penal Servitude, and all herded together, irrespective of age, antecedents, and habits. This disquietude led the Directors of Convict Prisons to suggest to the Secretary of State that an independent inquiry should be held into the Administration of Convict Prisons, feeling confident that any full and impartial inquiry would tend only to establish the soundness of the principle on which the Convict System was founded and the care with which it was administered. A Royal Commission was accordingly appointed in 1878, with Lord Kimberley as Chairman, and their Report marks another epoch in the history of Penal Servitude. The Committee advised an improved system of Classification by placing in a distinct class those against whom no previous conviction of any kind is known to have been recorded. This was the origin of the "Star Class" System, *i.e.*, the formal separation of the First Offender from the rest, which is one of the peculiar features of the English Convict System. Since those days this system of classification has been greatly improved and extended, as will be shown later; but the "Star Class" represents the first and most practical attempt to introduce the principle of segregation of the better from the worse, which has since become so familiar as an essential condition of any well organized Prison System. The Commission approved generally of the rigour which had been introduced into the Penal Servitude System by the Act of 1864, and subsequent Acts, which imposed and facilitated stricter police supervision on discharge. They condemned, however, that provision of the Act of 1864, by which seven years was made the minimum sentence after a previous conviction for felony. They were, however, in favour of retaining the minimum of five years for a sentence of Penal Servitude.

Another respect in which the Report foreshadowed the future development of the System was the great stress laid on the importance of taking steps to secure the inspection of Convict Prisons from time to time by persons appointed by the Government unpaid and unconnected with the Department. This idea was resisted in the minority Report by one of the members of the Commission,

and also by the Prison Authorities of that day. It denotes the want of public confidence which, at a time of awakening interest and curiosity in the administration, was sure to arise from a system of control which was vested in a close bureaucracy, such as almost from necessity, having regard to the history of the case, existed at that time for the management of Convict Prisons. It was nearly twenty years later that the principle, not only of unofficial visitation and inspection, but of actual co-operation in the government of Convict Prisons, was recognized by the Prison Act of 1898.

The succeeding ten years were marked by a remarkable fall in the number of sentences to Penal Servitude. The average yearly numbers, which for the five years ended 1864 had been 2,800, fell to 729 in 1890, or about two per 100,000 of the population,—a point at which it remained for many years; but during the last five years it has fallen to the lowest on record, viz:—9 representing only 340 committals during the year. In 1891 an Act was passed reducing the minimum period of Penal Servitude from five years to three, and various minor alterations in the law affecting the practice of licensing convicts were also made; thus, convicts were allowed to earn marks during the nine months of separate confinement (with which each sentence commenced) in the same way as during the remainder of their sentence, so that the maximum remission to be earned is exactly one-fourth part of the whole sentence: also convicts serving remanets of former sentences became able to earn marks under remanets in the same manner as under original sentences. The same Act also gave power to the Secretary of State to remit the requirements as to reporting to Police on discharge.

CHAPTER IV.

PENAL SERVITUDE TO-DAY.

THREE years later the principles of Prison treatment, as prescribed by law for all Prisons, Local and Convict, were made the subject of a fierce indictment in the public press. Criticism was directed, not only against the principles of administration, but even against the *personnel* of the administering authority. An inquiry, which was ordered by the Secretary of State, had reference mainly to the administration of Local Prisons which had been taken over by the Government in 1877, and were administered by a Board of Commissioners, distinct from the body of Directors, but it also called in question the principle of a long period of separate confinement which had for many years been the preliminary stage of a sentence of Penal Servitude. It also considered the question of offences committed by Habitual Criminals, whether in Local or in Convict Prisons, and offered the opinion that a new form of sentence should be placed at the disposal of Judges, by which such offenders might be segregated for long periods of detention under conditions differing from those either of Imprisonment or Penal Servitude.

The changes that have taken place in the Penal Servitude System since that date have been far-reaching and important.

1. The Progressive Stage System has been recast with the object of increasing the inducements to good conduct and industry in each Stage, and to bring the benefits of the System within the reach of the great majority of convicts who, by the shorter sentence of three years, under the operation of the Act of 1891, were excluded from them. At this time no convict whose sentence was less than six years, and who, after deducting one-fourth

remission of sentence allowed to all convicts, *was not more than four years in Prison*, could fully profit by the System, and thus two-thirds of the convict population were not in Prison for a sufficiently long time to be really subject to the benefits which the Stage System offers. Only one-fourth just got beyond the Second Stage, while one-third did not reach the Fourth Stage, and none of these could reach the "Special" Class, which, with the privileges it entails, may be regarded as the principal reward which the Penal Servitude System affords. A convict in this Class earns a special remission of one week and extra gratuity, wears a special dress, and is eligible for special employment in positions of trust. The wisdom and value of the system consists in its adaptation to each period of sentence, so that it may be within the reach of each convict who works hard and behaves well to gain privileges.

2. Another serious defect in the Penal Servitude system at that time was insufficient classification. There was no classification except that of the "Star Class" as already described. The object of the "Star Class" was to segregate prisoners not previously convicted and not habitual criminals from those versed in crime. There were only 370 convicts out of a total of nearly 3,000, or not much more than one in ten, eligible for the "Star Class." The others were a heterogeneous mass, who, although not considered eligible for the exclusive caste of "Stars," yet, in age, character, and antecedents differed greatly. To meet this, convicts are now divided into (a) the Star Class; (b) the Intermediate Class; and (c) the Recidivist Class—each class being, as far as practicable, kept apart by themselves, and not allowed to associate with convicts of the other classes. (a) *The Star Class*.—Any convict may be eligible for this class who has never been previously convicted, or who is not habitually criminal or of corrupt habits. Convicts in this class may be liable to be removed to the Intermediate Class if found to exercise a bad influence over other convicts; (b) *The Intermediate Class*.—Any convict may be placed in this class who has not been previously convicted, but who, owing to his general character and antecedents, is not considered by the

Directors to be suitable for the Star Class ; or whose record shows that he has been previously convicted, but not of such grave or persistent crime as would bring him within the Recidivist Class. Convicts in this Class may be promoted to the Star Class on their showing proof of a reformed character, or they may be reduced to the Recidivist Class if they are known to be exercising a bad influence over other convicts. (c) *The Recidivist Class*.—Any convict may be placed in this class who has been previously sentenced to Penal Servitude or whose record shows that he has been guilty of grave or persistent crime ; or whose licence, under a sentence of Penal Servitude, has been revoked or forfeited. There is also a separate classification of convicts sentenced to Penal Servitude who, on conviction, are under the age of 21 years.

If under the age of eighteen, they may be sent by order of the Secretary of State to a specially selected Prison for treatment under the Rules for Juvenile-Adult prisoners. To those that remain in a convict prison, the principles of Borstal treatment are applied as far as practicable.

A new category of convicts was also established known as the Long Sentence Division, *i.e.*, convicts sentenced to 8 years or more, and who had served more than five years under ordinary rules. These men are specially located : they wear a special dress, earn gratuity, and may purchase articles of comfort or relaxation. The rules provide for meals in association, and for conversation at exercise and meals ; and, latterly, a still further category has been established known as the “Aged Convicts” Division, in which a convict may be placed when it is clear from his advanced age, and the length of the sentence remaining to be served, that (1) he is physically feeble and not dangerous, and (2) that he has little prospect of surviving the sentence in confinement. Subject to good conduct, a prisoner in this class is free, as far as possible, from all penal conditions.

One of the recommendations of the Penal Servitude Commission of 1879 was that Weak-minded Convicts should be concentrated in special Prisons, and placed in charge of specially selected officers. The medical evidence given before the Prisons Committee of 1895 was

in favour of a more effective concentration than had hitherto been carried out. Since 1897, all male convicts whose mental condition was considered doubtful or defective have been transferred to Parkhurst Prison. The numbers in this class increased, and the experience gained by the methods adopted for their treatment enabled the Directors in 1901 to formulate special regulations for their treatment. These regulations are of a wide and general character, and admit of an elasticity of treatment for the varying types classed as "weakminded"; at the same time they ensure that the departure from the rules and routine applicable to ordinary prisoners shall be minimised as far as possible, so that any marked difference of treatment should not operate as an inducement to malingering. A similar class for weakminded female convicts was commenced at Aylesbury Prison in 1906.

3. The period of Separate Confinement which, from the earliest days, had preceded a sentence of Transportation or Penal Servitude, has, during recent years, been the subject of much consideration. The Separate System for convicts, as already explained, owes its origin to a letter addressed in 1842 by the then Home Secretary, Sir James Graham, to the Commissioners of Pentonville Prison. It was the success realized at Pentonville in the early 'forties which has made Separate Confinement part of the sentence of Penal Servitude in this country from that day to this. When Transportation ceased, and with it the system of selecting particular convicts, young and not versed in crime, to undergo the Pentonville experiment with the hope and prospect of freedom after eighteen months in a foreign but congenial clime, the "System" still remained, but without the conditions which had contributed to its success in the first instance. It seems that in fact the *penal* and *deterrent*, rather than the *reformatory* value, came gradually to be regarded as its basis and justification. It was applied to *all* convicts, irrespective of age and antecedents. In 1853 the period was reduced from eighteen months to nine months. It appears that the former period of eighteen months was the subject of severe criticism and of great prejudice by

those who formed their opinion on rumours very prevalent at the beginning of the last century with regard to the effect of the so-called "solitary" system as carried out in the United States, with the accompaniments of darkness, absolute solitude, absence of any employment, and unwholesome sanitary conditions. On the other hand, an extensive experience had been gained in Local Prisons, where cellular separation was already in force previously to the Act of 1865, and had become in many Prisons the regular method of executing a sentence of imprisonment up to two years. This strengthened the position of those who argued that strict separation for eighteen months could be carried out without disadvantageous results, on the condition that prisoners were supplied with occupation and employment, kept in physically healthy circumstances, and separated, not from all other human beings, but only from each other. The nine months' period seems to have been adopted as a sort of compromise with the prejudices above referred to; and it had this further advantage—that by its adoption, the expense of having to provide accommodation for *all* convicts during separate confinement was greatly reduced, as twice the number could be passed through this Stage under the limitation of nine months. The penal or deterrent purpose of Separate Confinement for convicts was, no doubt, greatly intensified by the Report of the Royal Commission of 1863. That Commission reported as follows:—

"The separate confinement to which convicts sentenced
"to Penal Servitude are, in the first instance, subjected,
"seems to be regarded with great dislike by most of them,
"and especially by those who are criminals by profession.
"It appears that owing to the want of room in the prisons
"for separate confinement, and the demand for labour on
"Public Works at Portland and Chatham, the period of
"separate confinement, during the last year, has fallen so
"short of the nine months prescribed by the regulations,
"that the average has been only seven months and twenty
"days. Arrangements ought at once to be made for
"remedying this. We are of opinion that convicts ought
"to be kept in separate confinement for the full period of
"nine months, except in the case of prisoners who are

“found unable to undergo it so long without serious injury to their bodily or mental health. No considerations of expense, whether connected with the necessity for additional buildings, or with the loss of the labour of the convicts, ought to be allowed to prevent this stage of punishment from being continued for the time prescribed by the regulations. We think, too, that though separate confinement, even under the present system, is, as has been said, extremely distasteful to convicts, this wholesome effect on their minds might be increased. It has been already mentioned that in Ireland the diet is lower during the first four months, and that no work is given to the prisoners for the first three months, except such as is of a simple and monotonous character, in which they require little or no instruction. This practice has been adopted because it has been found that by far the greater number of convicts have no knowledge of any trade, and when first taught one must necessarily be constantly visited by their Instructor, whose visits tend to mitigate the irksomeness of separate confinement. There appears to us to be much force in the reasons which induced the Directors of the Irish Convict Prisons to adopt these means for rendering separate Imprisonment more formidable, and we therefore recommend that attempts should be made with due caution to give a more deterrent character to separate Imprisonment in the English Prisons.”

The Report of the Directors for 1863 shows that steps were at once taken to enforce rigidly this stage of punishment. Fixed wooden beds were substituted for hammocks; the assembling of convicts for education in classes was discontinued, and the cell doors, which had been formerly opened after two months, were kept bolted during the whole period of separate confinement. The Governor and Chaplain of Millbank both reported that these changes had been attended with a visible improvement in the bearing and demeanour of the prisoners. The Directors stated that their object was to render this stage of punishment as *deterrent* as possible; to habituate convicts to habits of order and obedience preparatory to their going on Public Works, and, at the same time, to

avail themselves of this opportunity to educate by means of cellular instruction.

The great fall in the convict population which was taking place at this time, and continued during succeeding years (the fall between 1854 and 1874 was from 15,000 to less than 9,000) led the Directors in 1873 to attribute this remarkable decrease to the severe system which had been established. They say:—"Whatever may be the causes which combine to produce an increase or decrease of crime, this system of punishment is certainly one of them, and the records of past Commissions of Inquiry show that an increase of crime has generally been attributed principally to defects in the Prison System. If punishment alone is not to be relied on to diminish crime, it is certainly one of the means of doing so, and it should be carried out so as to make imprisonment a terror to evil-doers, as well as the means of bringing those subject to it into better habits of mind by placing them under the influences to which they would not ordinarily be subject."

The last expression of public opinion on the point is in the Report of the Committee of 1895. It was recognized that the purpose served by the System was to give a more deterrent character to the sentence of Penal Servitude. The practice of serving this period in Local Prisons was regarded with disfavour; and it was suggested that the severity of the System might be mitigated by a substantial reduction in the period of separation, and by the introduction of such reformatory influences as were brought to bear on convicts at Pentonville under the original system. Soon after that date, there was a reduction in the period for "Star" Class and "Intermediates," *viz* :—three and six months, respectively, but nine months still remained for men in the "Recidivist" Class. In 1909 the whole question of separate confinement again came under review, when it was agreed that a short period of separate confinement was a proper preliminary of a sentence of penal servitude, in the same way as it is of an ordinary sentence of imprisonment with "hard labour." It was regarded that to send convicts direct to Convict Prisons from the outer world, fresh from a criminal and disorderly

life, to associate with those whom discipline had sobered, and, possibly, improved, would be fraught with evil; and that there would be a constant introduction of newcomers from the outer world with fresh news and incidents, causing general unrest in Convict Prisons. It would give to the "old lag" what he most desires,—a prompt renewal of association with his old companions, while to the less criminal man it would be an intolerable suffering to be placed at once in association at Public Works. After the fullest consideration, the Commissioners advised that a change be made both in the duration of the period of separate confinement for convicts, and in the method of its execution. The Commissioners recognised that the difference of the periods, three, six, and nine months served, respectively, by the "Star," "Intermediate," and "Recidivist" Classes under the Rules then in force, emphasized in a way which it might not be easy to defend, the penal or deterrent effect of Separate Confinement. It was thought simpler and more defensible to rest the Penal Servitude System on the analogy furnished by the Local Prison Code, where a month's cellular confinement precedes an ordinary sentence of Hard Labour, and that, by analogy, three months' cellular confinement might be deemed a fitting prelude to a sentence of Penal Servitude. Eventually, however, it was decided that three months should be the period for "Recidivists" only, and that the period for the convicts classed as "Star" and "Intermediate" should be for one month, subject, of course, in every case to medical advice, having regard to the convict's mental and physical condition.

4. The Prison Act of 1898 effected far-reaching changes in the Convict System. (*a*) It placed the control of Local and Convict Prisons under one Board: (*b*) It gave power to the Secretary of State to make Rules for the government of Convict and Local Prisons, subject to Parliamentary sanction, so that henceforth the whole Prison Code has Parliamentary sanction, and can be altered at any time by Parliamentary rule without the necessity for fresh legislation: (*c*) A Board of independent Visitors was established for every Convict Prison with

judicial powers analogous to those exercised by Visiting Committees of Local Prisons: (d) Corporal punishment for offences against prison discipline, which had hitherto been ordered by one of the Directors for any serious offence, was limited by this Act to cases of gross personal violence to an officer of the Prison, and to acts of mutiny. Such cases are reported to the Board of Visitors and determined by them, subject to confirmation by the Secretary of State. These provisions of the Act of 1898 have been attended with remarkable success. Constant criticism, which for many years had been directed against the System, has been silenced. It is no longer contended that secret tribunals administer unauthorized floggings, or that what goes on in Convict Prisons is concealed from the light of day, without the opportunity of free and independent inspection and inquiry. Floggings in Convict Prisons, without any apparent effect on order or discipline, which, prior to 1896-7, averaged about thirty yearly, have gradually diminished, until, for the past five years, the average has been less than two—and, at the same time, offences against discipline amongst males have fallen, only 21.7 per cent, last year incurring punishment, as compared with 31 per cent, in 1896-7. The whole character of the administration has been largely affected by this important Act, and the gloom and the mystery which was popularly supposed to envelope the Convict System has largely disappeared, and greater public confidence in the administration has taken its place.

Penal Servitude is the same in its essential features for men as for women, except that the latter under the Progressive Stage System are able to earn marks entitling them to a maximum remission of one-third, and, in certain cases, are eligible to be sent to a Refuge under conditional licence for the last nine months of their sentence. The number of female convicts in the country has been steadily falling. Since the Penal Servitude Act of 1864 the number received has decreased from 468 in that year to an average of about 38 annually. Towards the end of 1918, in view of the increasing number of young women committed to the Borstal Institution at Aylesbury, the Convict Prison there was closed, and a wing of Liverpool

Prison has been temporarily set apart for women sentenced to penal servitude.

The System pursued for rendering aid to discharged convicts, and the means taken for their rehabilitation will be dealt with in a subsequent Chapter.

CHAPTER V.

PREVENTIVE DETENTION.

PREVENTIVE DETENTION is the name given to a form of custody, provided by the Prevention of Crime Act, 1908, for the protection of the public from the Habitual Criminal. The Judge has the power of passing a sentence of penal servitude for the particular crime charged in the indictment, and to pass a *further* sentence ordering, from the determination of the sentence of penal servitude, that the prisoner shall be detained for a period not exceeding ten years in Preventive Detention. Such a sentence cannot be passed unless the jury finds on evidence that the offender is an "Habitual Criminal", that is to say, that since the age of 16 he has been at least three times previously convicted of crime, and that he is persistently leading a dishonest or criminal life. During the public inquiry into Prison administration of 1894 the question had been raised whether a new form of sentence should not be placed at the disposal of the judges for dealing with persons convicted of "professional" crime. The word "professional" is used in a technical sense to denote men whose Penal Records show that they have lived systematically by thieving and robbery, and that their acquisitive instincts have not been controlled by the fear and example of punishment. It appears from a census of the convict population of 1901 that of the total convict population of 2,879, no less than 1,342 had been previously sentenced to penal servitude or to three or more terms for serious crime involving sentences of six months and over. Of these, no less than 1,213 were convicted of offences against property, and it is interesting to observe that as we

descend from the best to the worst, there is a proportionate increase of crime against property, until it can be almost said that the "professional" criminal as defined constitutes a separate and peculiar class which demands a special and peculiar treatment. As stated in the volume of Judicial Statistics for 1897, "It is a fact that has to be faced that neither penal servitude nor imprisonment serves to deter this class of offender from returning to crime. His crime is not due to special causes such as sudden passion, drunkenness, or temporary distress, but to a settled intention to gain a living by dishonesty." It was proposed in 1903 to set up in Convict Prisons a "Habitual Offenders" Division, and that Courts, when satisfied that a person convicted on indictment of an offence punishable by penal servitude after more than two previous convictions on indictment, was leading a persistently dishonest or criminal life, and that it was expedient for the protection of the public that he should be kept in detention for a term of years, should have power, after passing a sentence of penal servitude for not less than seven years, to order that he should pass a certain period of his sentence in the Habitual Offenders' Division.

The object of the Bill was to make better provision for dealing with persons who habitually lead a life of crime. In a Memorandum explaining the Bill it was stated that "in the case of such persons, a sentence of imprisonment has neither a deterrent nor a reformatory effect, and in the interest of society, the only thing to be done with them is to segregate them from society for a long period of time. It may not be necessary, during that period of time, that their punishment should be a severe one. All that is wanted is that they should be under discipline and compulsorily segregated from the outside world. In the case of a conviction for a small offence, *e.g.*, stealing a pair of boots, both judges and public opinion would be averse to the passing of a long sentence of penal servitude, such as would be appropriate to a grave crime, however notorious an evil liver the offender may be. The new prison rules have created a new Division of long term convicts, for whom the ordinary convict discipline will be greatly mitigated, and this Bill

“authorizes judges to relegate habitual offenders, after a brief period of punishment, to that Division, and thereby seeks to encourage in appropriate cases the passing of long, as opposed to severe, sentences.” The project, however, did not pass into law, and it was not till five years later, in 1908, that Parliament enacted the very important Statute establishing a system of what is known as “Preventive Detention,” it being deemed expedient for the protection of the public that where an offender is found by the Court to be a habitual criminal, the Court should have power to pass a special sentence ordering that, on the determination of sentence of penal servitude, he may be detained for a period not exceeding ten nor less than five years, under a system known as that of “Preventive Detention.”

In laying before Parliament the Rules for carrying out the Act, the Secretary of State, Mr. Churchill, stated:—

“Only the great need of society to be secured from professional or dangerous criminals can justify the prolongation of the ordinary sentences of penal servitude by the addition of such Preventive Detention. It appears a matter of much importance that this should be clearly understood, and that the idea should not grow up that Preventive Detention affords a pleasant and easy asylum for persons whose moral weakness or defective education has rendered them merely a nuisance to society. The Secretary of State is satisfied that no case has been established, either from the statistics of crime or otherwise, for an increase in the general severity of the criminal code, and certainly no increase of general severity was within the intention of Lord Gladstone in proposing, or the House of Commons in passing, the Prevention of Crime Act. On the contrary, it was intended to introduce such mitigation into the conditions of convict life as would allow the longer detention of those persons only who are professional criminals engaged in the more serious forms of crime. This is indicated in the Act by the fact that Preventive Detention cannot be imposed except for a crime of such a character that it has justified the passing of a sentence of penal servitude. It was,

“moreover, repeatedly stated by Lord Gladstone in the
“course of the debates that the Bill was devised for ‘the
“advanced dangerous criminal,’ for ‘the persistent danger-
“ous criminal,’ for ‘the most hardened criminals’: its object
“was ‘to give the State effective control over dangerous
“offenders’: it was not to be applied to persons who
“were ‘a nuisance rather than a danger to society,’ or to
“the ‘much larger class of those who were partly vagrants,
“partly criminals, and who were to a large extent mentally
“deficient.’ On the 12th June 1908, he explained to the
“House of Commons that the intention was to deal not
“with mere habituals but with professionals: ‘For sixty
“per cent. the present system was sufficiently deterrent,
“but for the professional class it was inadequate. There
“was a distinction well known to criminologists between
“habituals and professionals. Habituals were men who
“drop into crime from their surroundings or physical
“disability, or mental deficiency, rather than from any
“active intention to plunder their fellow creatures or from
“being criminals for the sake of crime. The professionals
“were the men with an object, sound in mind—so far as
“a criminal could be sound in mind—and in body,
“competent, often highly skilled, and who deliberately,
“with their eyes open, preferred a life of crime, and
“knew all the tricks and turns and manœuvres necessary
“for that life. It was with that class that the Bill would
“deal.’ Although, therefore, the term ‘habitual’ is used,
“it is clear that not all habituals but only the professional
“class is aimed at by the Act, which not only restricts
“the use of Preventive Detention to those already found
“deserving of three years’ penal servitude, but provides
“many safeguards against the too easy use of the new
“form of punishment.”

A new Prison for the reception of these cases has been constructed at Camp Hill in the Isle of Wight, where it has been possible to secure not only an admirable site, with sufficient ground for cultivation, and for additional buildings, if necessary, but a locality which, from the point of view of climate and salubrity, and opportunity for agricultural work of a severe nature, is well adapted for the custody and treatment of a new class of prisoner, for whom,

in conformity with the words of the Act, it has been necessary to devise a treatment which, while subject generally to the law of penal servitude, shall admit of such modification in the direction of a less rigorous treatment as may be prescribed; while, at the same time, they shall be subjected to such disciplinary and reformatory influences, and shall be employed on such work as may be best fitted to make them able and willing to earn an honest livelihood on discharge. The rules made, attempt to follow, with as much precision as possible, the prescription of the Act, which, it will be recognized, does not admit of a simple or easy solution. They have been framed generally with a view that, consistently with discipline and safe custody, there should be a considerable modification of the severer aspects of a sentence of penal servitude. Promotion from the ordinary to the special grade is earned by good conduct and industry, as in penal servitude, but certain privileges, such as association at meals, and in the evenings, smoking, newspapers and magazines, &c., can be earned, as well as a small wage, not exceeding threepence a day, part of which can be expended on the purchase of articles of comfort from the canteen. Special provision has recently been made for the location in what are called "Parole lines," of such men as are, in the opinion of the authorities, qualifying for conditional discharge. The rules permit a considerable relaxation of discipline and supervision, so that each man may be tested as to his fitness for re-entry into free life.

It would, perhaps, in any case, have been impossible to have given a definite opinion on the value of the system until a longer period of time had elapsed. Such a judgment is rendered more difficult by the fact that the operation and effect of the System has been, of course, greatly affected by the intervention of the Great War. However, reports of the Central Association, to whose care these men are entrusted after release on conditional licence, and the reports of the Advisory Committee (an unpaid body unconnected with official administration appointed by the Secretary of State, under the Act, to advise him when, in their opinion, conditional liberation may be opportune without danger to the community, and *with reasonable*

possibility of good behaviour), furnish material on which an estimate may be formed, both as to the future working and the success of the system.

Since the Act came into operation on the 1st August 1909, 577 persons have been sentenced to Preventive Detention. Of 389 cases released, no fewer than 325, or 84 per cent., were considered sufficiently promising to be released on licence, while of the remaining 64 who served their whole sentence of Preventive Detention, many were mentally or physically deficient. Of the 389 cases, the Central Association has recently reported that no unsatisfactory report has been received in the case of 210, or 54 per cent.

The singular success of the Central Association in dealing with these cases on discharge, representing, as they do, the worst and most dangerous class in the community, naturally suggests reflection as to the comparative merits of the systems of licensing on discharge from Penal Servitude and Preventive Detention, respectively. Under the Penal Servitude system, a convict can, by industry and good conduct, reduce his sentence by as much as one-fourth. On discharge he remains, during the unexpired portion of his sentence, under a licence which compels him to report his place of residence to the Police of the district, and to notify them of his intention to remove, and of his arrival in a new district, and to report to the Police once a month. A prisoner under Preventive Detention remains in custody only until the Advisory Committee are able to report that, if licensed, there is a reasonable probability of his abstaining from crime; but he is licensed, not to the Police Authorities, but to the Central Association—a voluntary Association subsidized by the Government for the after-care of convicts. The form of licence is quite different from that used on discharge from Penal Servitude, and compels a man to proceed to an approved place, not to move from that place without permission, to be punctual and regular in attendance at work, and to lead a sober and industrious life to the satisfaction of the Association. The Police licence may be described as negative in character, viz:—it only prescribes that a man shall abstain from crime. The licence to the Central Association is positive, as

prescribing that, under careful and kindly shepherding and supervision, a man shall actually work where work is found for him, and shall remain at work under the penalty of report for failing to observe the conditions of licence. The difference between the negative and positive forms of licence has been the subject of much discussion in the United States of America, where the English methods, as prescribed by the Penal Servitude Acts of last century, have been ruled out of court by a strong public opinion, which insists that for many of the crimes for which men are sentenced to Penal Servitude, it is neither necessary nor reasonable to inflict a long period of segregation under severe penal conditions. It is felt there, as it is by many people in this country, that a comparatively short period, followed by discharge on *positive* licence, with liability to forfeiture on relapse, would restore many men to normal conditions of life before the habit of hard work had been blunted by imprisonment, and family and other ties broken, and would save large sums of public money now spent on imprisonment.

The application of the principle of Preventive Detention to our Penal Servitude System would, of course, involve the question of the Indeterminate Sentence. That opinion is hardening in the direction of some such system in lieu of Penal Servitude is demonstrated by the fact that at the last International Congress in Washington in 1910, a resolution in favour of the Indeterminate Sentence, as a punishment for grave crime, was carried unanimously by delegates representing most of the countries of Europe and of the civilised world.

The successful working depends almost entirely on the capacity and discretion of the Advisory Committee, appointed under Section 14 (4) of the Act of 1908, and what success has been attained is due to the care taken by the Committee in the investigation of each individual case, and in the suggestions offered to guide the Secretary of State in deciding the question of conditional release. By the death of Sir Edward Clayton, Chairman of this Committee since 1914, a great public loss has been sustained. He devoted himself during the latter years of his life with untiring energy to the duties of this office,

for which he was pre-eminently qualified by his long experience in prison administration, as well as by largeness of view and understanding of the criminal problem. From the elaborate Memorandum which he wrote shortly before his death, it appears that his experience at Camp Hill made him a strong advocate of the Indeterminate Sentence, and he feared that the fixing of a definite limit, irrespective of a man's reformation, may defeat eventually the intention of the Act. The intention of the Act was, it will be remembered, primarily that there should be no fixed limit of detention, but Parliament thought otherwise, and the present limit of ten years, with a minimum of five, was decided upon.

Sir Edward Clayton was succeeded by Mr. Arthur Andrews, J.P., as Chairman of this Committee. Mr. Andrews has devoted himself for many years with great zeal to the functions of the Committee over which he now presides. He has lately reported to the effect that, in the opinion of the Advisory Committee, after reviewing the history of the Scheme since its inception in 1912, "it is an unqualified success." They consider the Scheme, as now applied, "is highly satisfactory, and productive of the best results; and that great credit is due to all concerned in its administration. The reformatory influence of Camp Hill and the Parole Line System deserve commendation, and the fact that none of the 175 prisoners who have been located in the Parole Line Cabins made any attempt to break parole, and that it has only been necessary to remove three for misconduct, testifies to the success of the plan which provides a stepping-stone from imprisonment to liberty."

"The Committee also desire to make special reference to the work of the Central Association, and to the excellent system of providing employment and keeping in touch with the men under their supervision. The success of the Preventive Detention Scheme is greatly due to the exhaustive efforts of the officials of the Association."

On reviewing and comparing the figures afforded by the Central Association's Reports, there can be little doubt that Preventive Detention, as a supplement to our penal system, has, so far, yielded much more favourable results

than could have been originally expected. The Committee recognise that the high proportion of successes is probably, to a considerable extent, attributable to the war, inasmuch as the Army provided a wide field of employment, and the labour market offered almost unlimited work for both skilled and unskilled men. As a result, many habitual criminals have renounced their criminal tendencies in favour of honest work, and those who have joined the Army are there the subjects of a disciplinary organisation which is probably an important factor in their reformation.

There is, of course, an element of doubt as to whether all these men would have abstained from crime in a normal environment, but the manner in which they responded to their country's call indisputably proves that in the worst of criminals there is a latent moral strain which can be brought to the surface under favourable conditions; and, moreover, the splendid example afforded by those who acquitted themselves so well has probably a more far-reaching effect on their late fellow prisoners at Camp Hill than is apparent.

These facts certainly justify the hope that a successful attempt has been inaugurated for dealing with the problem of Habitual Crime and of Recidivism. As an additional security that the great powers vested in the judge may not be appealed to lightly, and without the fullest consideration, the Act provides that the consent of the Director of Public Prosecutions must be obtained before a charge for dealing with a prisoner as an Habitual Criminal can be inserted in the indictment. This is sufficient guarantee that the intention of Parliament, viz.: that the somewhat drastic provision, by which the offender guilty of a grave crime can, after expiating a sentence of penal servitude for that offence, be deprived of his liberty for another period of ten years in the general interest, and for the protection of society, shall not be applied to persons who, as stated in Mr. Churchill's Memorandum, are "a nuisance rather than a danger to society, or to the much larger class of those who are partly vagrants, partly criminals, or who are, to a large extent, mentally deficient." In other words, it must be clearly understood that this defensive power is not meant

to be used as a protection against Recidivism in petty offences. It does not touch that large army of habitual vagrants, drunkards, or offenders against bye-laws and Police Regulations, who figure so largely in the ordinary prison population. It is a weapon of defence to be used only where there is a danger to the community from a professed doer of anti-social acts being at large, and reverting cynically on discharge from prison to a repetition of predatory action or violent conduct. Used in this way, with caution, it is, I think, an invaluable instrument for social defence. It has remained rusty during the war, only 80 having been sentenced under the Act during the last four years ; but it remains ready for application in the event of the recrudescence of grave habitual crime, and it is earnestly to be desired that both Judicial and Police Authority may make use of the great powers conferred upon them by the Act to relieve society, at least for a time, of those who are its professed enemies. The Act also applies to women, but only eleven have been sentenced to Preventive Detention since the Act came into force, and at present there are none in custody.

CHAPTER VI.

IMPRISONMENT.

UNDER the Common Law all gaols belonged to the King and by 5 Henry 4. c. 10, it was enacted that none should be imprisoned by any justice of the peace, but only in the "Common Gaol," saving the franchises of those who have gaols. Except in special cases the gaols were under the control of the sheriff, but the gaols which great noblemen and bishops were allowed to maintain must have been governed by these dignitaries, while the gaols which towns, liberties, or other bodies, having no sheriffs, were empowered by charter or otherwise to keep, must have been under the governing authorities of those bodies. By the 39th Eliz., another place of imprisonment was established for certain classes of offenders, under the name of "House of Correction," and 7 James 1. c. 4, directs that, in every county, such a house should be established, and means provided for setting rogues and idle persons to work. These establishments were under the justices. The custom gradually grew up of committing criminals of all classes to Houses of Correction, and was legalized by 6 Geo. 1. c. 19 and 5 & 6 Will. 4. c. 38. s. 3, by which latter Act even sentence of death might be carried out at these places; but debtors could still be committed only to the Gaol and vagrants only to the House of Correction; and though it became common to unite the two buildings under one roof, with one governing staff, the two superior jurisdictions of the sheriff and the justices over what was virtually one establishment were still maintained.

The title "House of Correction" was subsequently abolished by the Prison Act, 1865, and since that date "Local Prison" has been the official designation of the place of detention of persons sentenced to imprisonment.

A "Convict Prison" is a place of detention for a person sentenced to penal servitude. There are fifty-six Local Prisons in which sentences of imprisonment are served, (though 14 have been temporarily closed during the war). They vary in size, from the large Local Prisons in London, Manchester and Liverpool, with an average population of 1,000 or more, to the small prisons in country districts with a daily average of less than 100. By the Prison Act of 1877, the entire management of these prisons was transferred from the various local jurisdictions to the State, and the cost incidental to their maintenance from the local rates to the Imperial Exchequer. They are vested in the Secretary of State for the Home Department, and are administered, subject to his approval, by a body of Commissioners appointed by the Crown.

Although by Common Law imprisonment only involves deprivation of liberty, yet by a series of statutes extending from the middle of the eighteenth century to the present day, the nature and methods of imprisonment have undergone successive modification. These I propose to trace shortly, so that the present system of imprisonment, in its two principal forms—"with," and "without hard labour"—may be understood. There is probably no legal phrase so imperfectly understood, or which in its application has been so embarrassing to the administration, or which has to a greater extent misled the Courts of law in assigning punishment, as the phrase "hard labour." By its comparison with the French "*travaux forcés*" it has created an impression in foreign countries that it is a very severe penalty, applied only for the greatest crimes; at home it obscures the principle that in prison all labour is hard, *i.e.*, that all prisoners are punished with an equal prescribed task, whether they be sentenced to imprisonment with or without hard labour: and in penal servitude, where the manual labour is of the hardest, the phrase has no legal existence.

The reform of the English Prison System originated towards the end of the eighteenth century with the public exposure made by the great Howard on the deplorable condition of our gaols, and his statue in St. Paul's Cathedral fitly commemorates the gratitude of

his country for the services he rendered to humanity. The story of his life is well known: how, being seized by a French privateer on his way to Lisbon in 1755, he was thrown into a dungeon at Brest, and so had personal experience of the horrors of imprisonment: how in 1773 the duties of his office as High Sheriff of the County of Bedford led him to inquire into the state of Prisons in England and Wales: how in 1774 he was examined by the House of Commons on the subject, and had the honour of receiving the thanks of that Body: how he devoted his later life to the inspection of prisons at home and abroad until his celebrated work on the "State of Prisons," published modestly at his own expense in a provincial town, awakened the public conscience to all the horrors of imprisonment; how, owing to his influence, not only statesmen, lawyers, and philosophers, but all the uninstructed public opinion of the day, now, for the first time, began to realize that the whole penal system was a scandal and a disgrace.

The Prison Act of 1778 is the beginning of the English Prison System. This measure, the result of the joint labours of Mr. Howard, Sir William Blackstone, and Mr. Eden, was due, not only to the newly-awakened interest in the treatment of prisoners, but to the political necessity for making provision for keeping our prisoners at home, which had resulted from the loss of the American Colonies. In this Act the principle of separate confinement with labour, and of religious and moral instruction, is clearly laid down and enforced. In the year 1781, a further Act was passed, making it compulsory for Justices to provide separate accommodation for all persons convicted of felony who were committed for punishment with hard labour, it being recited in the preamble to the Act that in the absence of such provision "persons sentenced for "correction frequently grow more dissolute and abandoned "during their continuance in such houses."

The principle of separate confinement having been thus recognized by Parliament, the Justices of some Counties, including Sussex and Gloucester, respectively, started the local prisons of Horsham, Petworth, and Gloucester, on the separate plan, and they furnish interesting historical

record of the formal adoption in this country of a system which, a few years later, under American influences, became generalized throughout the civilized world.

The proposition of Mr. Jeremy Bentham for a new and less expensive mode of employing and reforming convicts, by the construction of a large establishment, called by him a "Panopticon," appears to have diverted public attention from the real end and object of imprisonment; and this proposition, being finally abandoned in 1810, led to the consideration of fresh plans, which ended in a system of so-called "*Classification*" as established in 1822, by the Act of 4th George IV., Cap. 64. Until Mr. Crawford's visit to the United States, separate confinement, though established in 1775, and only ceasing to be enforced when broken in upon by numbers for whom the accommodation was insufficient, appears to have been almost entirely lost sight of. An approximation to it existed at Millbank since the completion of that Prison in 1821, and a fair example of the system had been in operation at Glasgow since the year 1824. It is very doubtful, however, after the enormous expenditure made to effect classification, whether these traces of the system would have rescued it from oblivion without the aid derived from its practical development in the United States, and the concurrent testimony given in its favour by eminent men in France, Prussia, and Belgium.

By some curious growth of sentiment, which cannot be accurately traced, *Classification* rather than *Separation*, became the leading idea of those interested in prison reform. Howard was quoted as the authority for Classification, but it must be remembered that Howard was chiefly moved by the physical suffering of prisoners, and, with him, classification did not mean much more than to separate the debtor from the felon, the guilty from the innocent, the men from the women, and the adult from the child,—and this by a system of separate confinement described in the Act of 1778. The classification in the sense in which it affected the movement of opinion in the first quarter of the last century went further than this. It seems to have assumed that if prisoners in the same categories, and, therefore, presumably of more or less the

same moral characters, were associated together in common rooms or dormitories, no evil results were likely to follow, and facilities for labour, according to Bentham's ideas, would be greatly improved; and thus we find that in 1823, the Act of 4 Geo. IV., c. 64, in so far as discipline is concerned, gave effect mainly to this principle. Many extensive and important prisons were erected in conformity with this Act, notably at Maidstone, Derby, Westminster, Chelmsford, and Leicester, in which the Governor's house was usually placed in the centre with detached blocks of cells radiating from it. The average size of the cells was only about eight feet by five feet, with a day room and yard of proportionate size for each different class or category of prisoners. The only inspection was from the central building, and there was no interference with the unrestricted association of prisoners, and the greatest neglect, disorder, or irregularities might go on unperceived; and it soon became manifest that, to whatever extent classification might be carried, there was no moral standard by which it could be regulated, nor any limit short of individual separation that could secure any single prisoner from contamination. The mischievous effect of this Act was soon condemned by public opinion, and two Parliamentary inquiries were held in 1832 and 1836, which concurred in the strong opinion that more efficient regulation should be established in order to save all prisoners, especially the untried, from the frightful contamination resulting from unrestricted intercourse. It was at this time that the great controversy between the so-called "Silent" and "Separate" Systems sprang up in the United States, and its echo was felt throughout the civilized world. The rival systems of Auburn and of Philadelphia became the historic battleground in which was fought out the great and burning controversy which centred round the question of the proper treatment of prisoners, and established the importance of the now accepted principle that prison discipline shall be reformatory at least to this extent, *viz*:—that the prisoner shall not be exposed to contamination by his fellows. The Silent System at Auburn meant a separate cell at night, and work in association by day under a

Rule of Silence. The Separate System at Philadelphia meant entire separation both by night and day. The criticism on the former was that the Rule of Silence could only be maintained by harshness and severity, and the criticism of the latter was that continuous separation for long periods was unnatural and bad, both for body and mind. Mr. Crawford, one of the newly-created Inspectors under an Act of 1835, was sent to America to examine and report upon the rival Systems. MM. De Beaumont and De Tocqueville went from France; Dr. Julius and M. Mittermeyer from Prussia; and M. Ducpetiaux from Belgium. All travelled at the same time through the United States for the same purpose, and their practically unanimous views in favour of the principle of separate confinement had a great effect on public opinion throughout Europe. In England, Lord John Russell, then Home Secretary, issued a circular to Magistrates calling attention to its advantages, and in 1839 an important Act was passed containing a permissive Clause to render it legal to adopt the separate confinement of prisoners. It was, however, an express condition that no cell should be used for such purpose "which was not "certified to be of such a size, and ventilated, warmed, "and fitted up in such a manner as might be required by "a due regard to health." Also that a prisoner should be furnished with the means of religious and moral instruction, with "books and labour or employment." These were the first substantial steps taken in England since 1775 for establishing separate confinement. No prison in Great Britain, excepting perhaps that at Glasgow, was of a construction to enable magistrates to take advantage of the clause referred to. Lord John Russell, therefore, determined on the erection of a model prison at Pentonville.

It was completed in 1842, and a strong body of Commissioners was appointed by the Secretary of State to work out the great experiment. The Commissioners, in their Report for 1847, gave it as their final and deliberate opinion that the separation of one prisoner from another was the only sound basis upon which a reformatory discipline could be established with any reasonable hope

of success. The satisfactory progress of the experiment, and the confidence of the public in the Commissioners, under whose superintendence the experiment had been conducted, led to a general desire for its adoption throughout the country, and within a very few years many Prisons which had been recently erected for a Classification System were altered.

In 1850, a Select Committee of the House of Commons, presided over by Sir George Grey, the then Home Secretary, expressed the opinion that, under proper regulation and control, separate confinement is more efficient than any other system which has yet been tried, both in deterring from crime and in promoting reformation, but that it should not be enforced for a longer period than twelve months; and that hard labour is not incompatible with individual separation.

The student of the English Prison System must be careful to bear in mind at this juncture that the Secretary of State was not, as he now is, the supreme head of all Prisons in the country. He only had control over prisons where persons sentenced to Transportation might be confined. Pentonville, therefore, was not a local prison to which prisoners of the Metropolis would be committed in the ordinary course, but was specially built in order that an experiment of the System of Separate Confinement might be made by the authority of the Government under the best possible direction and superintendence. The *corpus* on which this experiment was made were first offenders between eighteen and thirty-five sentenced to Transportation, for whom a period, not to be prolonged beyond eighteen months, should be one of instruction and probation, rather than of severe punishment before the convict was shipped to Van Diemen's Land. Everything was done to render the separation real and complete: exercise was taken in separate yards, and masks were worn to prevent recognition. While primarily the Pentonville system was applied to convicts only, and became in fact the basis of our penal servitude system, as explained in the former chapter, yet it led indirectly to the establishment of the separate system in Local Prisons throughout the country. Although the Secretary of State had no

control over the administration of Local Prisons, yet, apart from the influence which the Secretary of State would naturally exercise in directing public opinion in such a matter, an Act of 1835 had made provision that all Rules framed by local Justices for Prisons should be subject to his approval; and the Act of 1844 authorised the appointment of a Surveyor General of Prisons to aid the Secretary of State by ensuring that due attention was given by local Authorities to the requirements of proper prison construction as prescribed by Act of Parliament.

Thus the Separate System became gradually established throughout the country, both for convicts in the early stage of their imprisonment, and for those committed to the County and Borough Gaols, although uniformity was very far from being established owing to the absence of any central control. It was this absence of uniformity which led later, as we shall see, to the complete centralization of the Prison System, which was effected finally by the Prison Act, 1877.

At the same time, two principal features of our prison system—Separate Confinement and Hard Labour—began to assume a definite shape at this period, which has been retained, subject to modification, until the present day. The duration of the period of Separate Confinement, and the regulation of the task of hard labour, consistently with cellular confinement, remained the problem of prison administration for many years, and cannot yet be said to be finally settled. There will be found running through all this period an earnest attempt to reconcile the claims of the two admitted objects of imprisonment, *viz*:—deterrence and reform. On the one hand there was strict separation, and on the other hand it was ordained that provision should be made in every prison for enforcing sentences of hard labour as enjoined by the Act of 1823, although that Act, as already stated, did not contemplate separate confinement, but a system of associated labour, and the word “Hard Labour” only assumed its narrow and technical meaning when the advocates of the Separate System, as the means of reformation, were unwilling altogether to lose sight of the necessity for some

deterrence in the shape of hard work. The question thus arose, and was warmly agitated, as to how hard labour could be adapted to the cellular system, and we find great ingenuity expended in devising forms of labour, such as cranks and treadwheels, in which each prisoner occupied a separate compartment. These particular forms of labour were recognized as "hard labour" *par excellence*, and as necessary for the due punishment of the offender, consistently with his occupation of a separate cell by day and night. With these problems unsettled: with a strange and general ignorance of the true principles of punishment: with conflicting views and diverse authorities, it is not to be wondered at that, during the following years, our Local Prison System was in a very confused and chaotic state, although nominally professing adhesion to prescribed principles, until inquiry made by Committees of the House of Commons and House of Lords, respectively, into the state of Local Prisons, in 1850 and 1863, led practically to the modern Prison System.

The Committee of 1850 condemned the state of existing prisons in unmeasured terms, declaring "that proper punishment, separation, or reformation was impossible in them." They anticipated by a quarter of a century the legislation of 1877 by advising the establishment of a Central Authority for enforcing uniformity on the lines of Rules laid down by Parliament. They advised that the Separate System, as carried out at Pentonville, should be generally applied to all prisons, but not for a longer period than twelve months. No action was taken on this Report until, in 1863, a Committee of the House of Lords again condemned the want of uniformity of punishment and treatment of prisoners, and the bad construction of prisons. They again urged that separation should be the rule in all prisons, and strongly advocated greater severity as a means of making punishment really deterrent, and their proposition that prisoners should endure "hard labour, hard fare, and a hard bed," has become historical, and was translated into practice by the Prison Act, 1865, which, for the first time, gave legal sanction to the principle of uniformity, by enacting a code of Rules as a schedule to the Act. These Rules, having statutory authority,

were only capable of alteration or repeal by Parliament itself. The great rigidity thus given to the System remained a barrier to real progress, and it was not until 1898, as I shall show later, that an elasticity was given to the System by the repeal of this schedule, by vesting in the Secretary of State the power to make Rules for the government of Prisons, subject to the condition that the new Rules should be laid formally before Parliament before they could be adopted.

However, the Act of 1865 was a great step forward. Prisons still remained under the control of the local Justices, but every prison authority was required to provide separate cells for all the different classes of prisoners. These cells were to be such as could be certified by an Inspector of Prisons that they satisfied all the requirements of the Rules. Elaborate provisions were introduced for regulating "Hard Labour," (a phrase carried on from early Acts of Parliament, framed before the days of scientific accuracy). It was divided into two classes: (1) the treadmill, shot-drill, crank, capstan, stonebreaking, &c. (2) any other approved form of labour. All prisoners over sixteen were required to be kept to first class labour for at least three months, after which time they would qualify for the second class. Dietaries were to be framed by the Justices, and approved by the Secretary of State, and any Rule they might make was to be subject to the approval of the Secretary of State. If they failed to comply with the Act, the Secretary of State was able to stop the Treasury contribution towards expenses of the Prison. It was also authorised, for the first time, that a prison authority might make a grant in aid of prisoners on discharge. The Schedule to the Act comprises details of the Rules regulating the administration of the Act on matters of Prison treatment. The power of punishment was restricted to Justices and the Governor of the Prison, the latter having power to order an offender to be placed in close confinement for three days on bread and water; the former could order one month in a punishment cell, or, in the case of a convicted felon sentenced to hard labour, could order flogging. Regulations were also made for the use of irons

or other forms of mechanical restraint. The important principle was enacted, which has since remained in force, *viz.*:—that no prisoner may be employed in the discipline of the prison, or the service of any officer, or in the service or instruction of any other prisoner.

Many years had not passed before it was perceived that the uniformity of punishment at which the Act aimed was not being secured. It began to be perceived, and most quickly by the criminal classes themselves, that in the different localities the same effect was not being given to the same sentence. Distribution of power among so many Justices—some 2,000 in all—gave occasion to the exercise by them of different views and methods of punishment, with the result that no standard of treatment was maintained, applying equally to all prisons, and severity or leniency of treatment seemed to depend on the accident of the locality in which the offender was arrested. Inquiry showed, also, that the System, besides being inefficient, was extremely costly, and many unnecessary prisons were being maintained, and that local sentiment operated against any effective supervision or control on the part of the Central Authority. These causes, taken in conjunction with an active demand, which found expression in Parliament at the time for the relief of some of the burden of local taxation, led the Government of the day to adopt a policy of complete centralization of the Prison System of the country. This new policy, as embodied in the Prison Act, 1877, resulted then from two causes,—a desire to establish a system of equal and uniform punishment under the direct authority of the State, and, incidentally, to relieve the taxpayer of the burden of maintaining Prisons. It was not to be expected that the local Authorities, naturally jealous of their rights and privileges, would abandon the control of the Prison System without a severe struggle. But the great relief offered to local rates, amounting to about half-a-million pounds per year, was sufficient to overcome opposition. Eventually, the Act transferred the whole of the Prison establishments, and their contents, to the control of the Government. It created a body of Commissioners, appointed by Royal Warrant, to manage

the new Department, and placed under them a staff of Inspectors, and of other officers, by whom the control of all those establishments was to be exercised. The Act compelled the local authority to hand over to the Government suitable and sufficient accommodation in each district, the test of sufficiency being the average daily number of prisoners maintained by the local authority during the five previous years. Where such accommodation was in default, the local prison authority was required to pay £120 for every prisoner for whom such accommodation was not handed over. At the same time, compensation was paid by the Government to the local authority which had provided a reasonable amount of accommodation in excess of the maximum of the average numbers received for the five preceding years.

Although the Justices lost their administrative powers, they remain in the shape of the "Visiting Committee," a body selected from the local Magistracy, as the judicial authority of Local Prisons, for hearing and determining reports against prisoners, and for the award of punishment. They also have large general powers of advice and suggestion; and the admitted success of the policy of centralization has been undoubtedly due to the wise compromise which continued the interest and concern of the local Magistracy in their local prisons; and which ensured not only just and patient hearing of reports against prisoners, but permitted reports on any abuses within the prison, and on complaints made by prisoners, by an independent judicial and unpaid body; and provided, at the same time, a tribunal to which the Secretary of State could always refer with confidence any question that might arise as between prisoners and the State. In certain respects, however, the judicial powers of the local magistrates were curtailed, *e.g.*, powers of ordering confinement in a punishment cell were reduced from twenty-eight to fourteen days, and the award of corporal punishment was made dependent on the concurrence of two magistrates. In other respects, the tendency of the Act was towards a greater humanity of treatment. The rigid provisions of the Act of 1865 as to the enforcement of first class hard labour were modified. Under that Act, it was enforced

for the whole of a sentence of three months, or even for an entire sentence, however long. Under the Act of 1877, the compulsory period was limited to one month. Another notable feature of the Act was the classification of prisoners into two divisions, one of which was that any person convicted of misdemeanour and sentenced to imprisonment without hard labour, might be ordered to be treated as a misdemeanant of the First Division, and, as such, was not deemed to be a criminal prisoner. Persons convicted of sedition or seditious libel, or imprisoned under any rule, order, or attachment, or for contempt of any Court, were to be placed in the First Division.

It is difficult to say whether the legislature intended this division, which, on the face of it, was a bold step in the way of differentiation, to be more than a reservation in favour of a few exceptional cases, such as are actually mentioned in the Act. The presumption is, having regard to the fact that prisoners treated as First Class Misdemeanants were not to be deemed criminal prisoners, that there was no intention to anticipate an elaborate classification, such as is now laid down, and that it was not realized what a vast importance rested in Classification, strictly so-called, and which finds its expression in the Prison Act, 1898. The powers given to the Secretary of State to make Rules under the Act of 1877 extended to such important matters as the treatment of prisoners awaiting trial, and of debtors; and the Rules then made, although modified in some details, remain essentially the same to-day. The principle of governing prisons by Rule made by the Secretary of State, subject to Parliamentary sanction, was still further developed in the Act of 1898, and may be said now to have been finally accepted as a wise and effective method for securing progressive change and reform without the necessity for revoking or enacting by the machinery of an Act of Parliament.

The Commissioners appointed under the Act took over their new duties on the 1st April, 1878. On that day, thirty-eight out of the 113 existing Prisons were closed. Sir Edmund Du Cane, the Chairman of the new Board of Commissioners, had been for some time

Chairman of the Board of Directors administering Convict Prisons, and his influence soon became predominant till his retirement in 1895. His great administrative powers were devoted to securing the objects which, in his opinion, the Prison Act, 1877, intended to secure, *viz*:—(1) the application to all Prisons of a uniform system of punishment: (2) the best possible method for carrying out the primary object of punishment, *viz*:— the repression of crime: and (3) economy in expense.

As to (1), uniformity was secured by the adoption, as in the Convict Prisons, of a Progressive Stage System: by the adoption of a uniform and scientific dietary: a uniform system of education: a uniform system of first class hard labour by means of the treadmill, the task for which was regulated by the most minute instructions as *the* task for hard labour in Prisons.

As to (2) it has since been made a charge against the administration of these days that it erred on the side of a too severe repression. To those who have lost their faith in the virtues of the cellular system, it may seem unduly rigorous that a prisoner should have remained subject to that system during the whole length of his sentence. There were, of course, exceptions to the general rule, *e.g.*, persons employed in the service of the prison, and other forms of extra-cellular labour, but separate confinement remained the rule for Local Prisons. To those, also, who condemn all forms of mechanical and unproductive labour, it may seem unduly rigorous to have insisted so minutely on the exact performance of a task of so-called first class hard labour. It is doubtful if public sentiment at that time would have been satisfied with the comparative leniency of the modern prison régime. The result of the earnest thought and discussion which have taken place through the civilized world during the last quarter of a century on all matters affecting the welfare of the prisoner has been, no doubt, to place his punishment on a more rational basis than that of mere obedience to mechanical and uninteresting forms of labour. The State until now had had no experience in dealing with short sentences. The problem to be solved was a new one, *viz*:—how to deal effectively with a man who was in

prison for only a few days or weeks, and to whom during that time no useful trade could be taught. It is indeed a problem which may well vex the brains of the wisest, and if the solution has not yet been found, we have at least got beyond the stage where it was thought sufficient, by the invention of fantastic devices for executing sentences of so-called hard labour, to give expression to a sentence of imprisonment. The Prison Authority of this day perhaps erred in regarding it as a part of their duty to add to the penalty prescribed by the Court by imposing, in the name of the Progressive Stage System, certain penalties and incapacities as a peculiar feature of the early Stages. The only precedent for dealing with short sentences was that afforded by Military Prisons. It is well-known that the Committee on Military Prisons of 1844, which was in favour of hard penal treatment—shot-drill, cranks, &c., (in use in military prisons as a punishment for recalcitrant soldiers) exercised a considerable influence with local authorities in administering Civil Prisons, and the reproach, so often directed to the Local Prison System, that it was too military in its character, was probably due to this source.

(3) With regard to economy, Sir E. Du Cane was formerly a distinguished officer of the Royal Engineers, and had been engaged for many years in advising the Secretary of State as Surveyor-General of Prisons. It was owing to his experience and capacity that, at a relatively small cost, the prison buildings soon after the Act were brought up to a high standard, both in construction and in sanitation. His financial ability was also of a high order, and economy, consistently with efficiency, became the order of the day. It may be that in some respects his desire for economy led him too far in the direction of retrenchment, both in buildings and in service, but, for the time being, he was justly credited with great administrative and financial success; and it appears from a table prepared in 1885, comparing expenditure on Local Prisons for seven years before and after the Act of 1877, that economy had been achieved amounting to nearly half-a-million of money. Further, in that same year, 1885, the prison population touched and continued

at a lower level than had been previously known. For the year 1878, in which the Prisons were handed over to the Government, the Local Prison population was the highest known, *viz.*—21,030. From that date it fell almost continuously till February 1885, when it touched the lowest figure then known, *viz.*—15,484. There had been, moreover, a decrease in the yearly death rate, in the number of suicides, and in corporal punishments, and in the yearly average of dietary punishments. A greater variety of employment had been introduced, and a new uniform system of accounts had been established. The Chairman had some justification, therefore, for inferring from these facts and figures that not only had the new penal system been made effective for the repression of crime, but that the legislation of 1877 had completely succeeded in its object in promoting uniformity, economy, and a generally improved administration.

CHAPTER VII.

THE INQUIRY OF 1894 : THE PRISON ACT, 1898 :
AND THE CRIMINAL JUSTICE ADMINISTRATION ACT, 1914.

Criticism, however, was not silent. There was an uneasy feeling in the public mind that too much importance had been attached to the principle of "uniformity," which was held to be responsible for the alleged evils of the system then in force, *i.e.*, the want of "individualisation" of the prisoner, and the stifling of local control. This feeling found an echo in the Press; not only were the principles of prison treatment, as prescribed by the Prison Acts, criticised, but the prison authority itself, and the constitution of that authority, were held to be responsible for many grave evils. It was contended that centralization only fostered bureaucracy, and that the Prison System of the Country was at the mercy of a single bureaucrat, the Chairman of the Prison Board. It was impossible for the Government of the day to ignore this fierce indictment. A Committee of Inquiry was appointed, under the Chairmanship of Mr. H. Gladstone, M.P., then Parliamentary Under Secretary for Home Affairs. The Report was published in April, 1895, just at the time that Sir E. Du Cane was retiring from the Service, he having attained the age of sixty-five, the age for retirement under the Superannuation Acts. The Report, resulting from a keen and exhaustive inquiry into every branch of prison administration, marks a distinct epoch in the Prison history of this country. It paid a high tribute of praise to the Prison Commissioners and their late Chairman, by its formal declaration that the centralization of authority had been a complete success in the direction of uniformity, discipline, and economy. But while admitting this, and the attention that had been given to organization, finance, order, sanitation, and statistics, it gave some justification for the popular belief

that centralization had been carried too far, and that local interest and authority had been unduly suppressed ; and to use the words of the Report (which constitute the real gravamen of charge against the prison authority) “ that “ prisoners have been treated too much as a hopeless or “ worthless element of the community, and that the “ moral as well as the legal responsibility of the prison “ authorities has been held to cease when they pass outside “ the prison gates.” These words may be said to mark the passage from the old to the new methods of punishment, and from those which rested upon severity and repression to those which looked more hopefully towards the possible reformation of persons committed to prison.

The decrease of crime, *i.e.*, as judged from the reduced daily average population of persons in prison, which had been habitually quoted and regarded as the correct test of of a successful prison system, was shown on examination to be due almost entirely to a diminution in the average length of sentences. This fact, *i.e.*, a greater leniency on the part of Magistrates and Judges, taken in conjunction with the remarkable outburst of public sentiment, to which I have referred, undoubtedly connote a gradual rise and growth throughout the community of a tendency towards a larger humanity in the treatment of crime, and a more rational execution of the sentences of the law. Hope of rehabilitation, which had perhaps been made too subordinate to the desire for a firm and exact repression, began to lift its head, and, from this time, the responsibility of the official authority, as a reclaiming agency, became greatly accentuated.

The new spirit which breathes in this Report, and which has largely influenced subsequent legislation and practice, is to be found, so far as Local Prisons are concerned, principally in reforms having for their purpose :—

- (1) the concentration of effort on the young or incipient criminal, 16—21.
- (2) improved classification, and the separation of first from other offenders in Local Prisons.
- (3) the abolition of the old forms of “ hard labour ” — cranks, treadwheels &c. The rules provide that the

labour of all prisoners shall, if possible, be productive, and the only difference, so far as labour is concerned, between a sentence with, and without, hard labour, is that in the former case a prisoner works in cellular separation for the first twenty-eight days of his sentence, after which period he may work with the rest in association in workrooms, or other open spaces. So long as the Statute preserves the distinction between imprisonment with, or without, hard labour, it is necessary that the system should give effect to the distinction, but the meaning which has been so long associated with the phrase "hard labour" still lingers in the public mind, which even now is apt to imagine that a sentence of hard labour implies a long period of solitary confinement with employment throughout the sentence on hard monotonous forms of labour, such as cranks and treadwheels. Associated labour on productive work is now the rule of Local Prisons, subject to the exception above stated.

- (4) the reorganization of "*Patronage*" or Aid-on-discharge.
- (5) improved methods for the education and moral betterment of prisoners.
- (6) the establishment of Training Schools for all ranks of the Prison Staff.
- (7) improved Prison Dietary.
- (8) improved medical treatment with special regard to weakminded and tuberculous cases.
- (9) the reconstruction of prisons, with a view to better sanitation, and provision of workshops for associated labour.

It was at this time that the present writer succeeded Sir E. Du Cane as Chairman of the Prison Commission, and the Secretary of State (Mr. Asquith) in conferring this appointment upon him, expressed the strong desire of the Government that the views of the Committee should, as far as practicable, be carried into execution. Since that date, accordingly, the reform and reorganization of the Prison System has been proceeding in every Department. The steps taken will be found in detail in the Annual Reports of the Commissioners since that date. It is not necessary to recapitulate here all the Departmental

changes that have taken place, although they are very extensive and far-reaching.

So far as legislation is concerned, three Acts of great importance have been passed—the Prison Act, 1898, the Prevention of Crime Act, 1908, and the Criminal Justice Administration Act, 1914.

The principal changes effected by the Prison Act, 1898, were, firstly the power given to the Secretary of State to make Rules for the Government of Convict and Local Prisons. The Rules embodied in the Schedule to the Prison Act, 1865, and enforced by Statute, were repealed, and what was, in effect, a new Prison Code was established, regulating every detail of administration in Local and Convict Prisons, subject only to the sanction of Parliament, and liable to alteration, from time to time, by Parliamentary Rules. Until now, the Rules of Prisons had been in a confused and chaotic state; some were fixed rigidly by Statute, others were framed without Parliamentary authority by the Secretary of State, others were enacted only by Standing Order,—all these were consolidated and embraced in a single Code, and their execution regulated by a new set of Standing Orders. Rules, with the Standing Orders which interpret them, are now the authority and foundation for the Government of Local and Convict Prisons. Not only has a greater simplicity of administration been attained, but, at the same time, a greater elasticity has been given to the System, which was sadly in need of it. It is not likely that it will again be necessary to resort to legislation in order to effect any change in the details of the System, the Secretary of State now having power, by Parliamentary Rule, to introduce such alterations as time and experience may dictate.

Secondly,—The Prison Act, 1898, created a Triple Division of offenders, power being given to the Courts to direct the treatment in one or other of the Divisions, having regard to the nature of the offence, and the character and antecedents of the offender. It will be remembered that the Act of 1877 had not gone further in the way of Classification than the establishment of the Division known as First Class Misdemeanants. This provision was repealed, and under the new law Courts have, generally

speaking, an absolute discretion as to the Division in which any convicted prisoner shall be placed. The Rules regulating the treatment of each Division are, of course, subject to Parliamentary sanction. It was hoped, at the time, that the Courts would gladly and readily avail themselves of these new and enlarged powers, although it is recognized that a great responsibility is thus imposed upon the Courts, whose duty, if strictly fulfilled, would be to discriminate in each case brought before it, and to order treatment according to character and antecedents. In this way, it was hoped to secure that "*individualisation de la peine*", which modern penitentiary science declares to be the ideal at which a good penal system should aim. Courts have not, however, shown a keen desire to exercise this fresh power to the extent contemplated by the Act, the number committed to the Second Division representing not much more than an average of about three per cent of the total eligible committals. The traditional methods of commitment to ordinary imprisonment, with, or without Hard Labour, have so deeply affected the criminal administration of Summary Courts that it has proved difficult to escape from their influence, in spite of the great power of discrimination which the Act affords.

Thirdly,—Another very important provision of the Act was the power given to enable a prisoner sentenced to imprisonment in default of fine to obtain his release on part-payment of the fine. Thus, in the case of a prisoner sentenced to pay a fine—say of ten shillings or two weeks' imprisonment in default—imprisonment could be reduced by a number of days bearing the same proportion to the length of his sentence as the sum paid by him bears to the total fine imposed. The object of this provision was, of course, to modify, though it could not abolish, the admitted evil of the system under which about half the population of Local Prisons is composed of persons not directly committed without the option of a fine for the graver offences, but sentenced to pay perhaps small fines for trivial offences. These, on their inability to pay, became subject to the ordinary pains and penalties of imprisonment as in the case of ordinary criminal prisoners. Although the principle established under the

Act was largely made use of, and thus a considerable reduction has taken place in the number of days for which persons sentenced in default of fine remained in Prison, the system of imprisonment in default continued in vogue, and was responsible for some fifty per cent. of the Prison population until action was taken by Parliament in the Session of 1914, since when a great change has taken place in this respect. The Criminal Justice Administration Act, 1914, to which I refer later, in addition to many other valuable provisions regulating the treatment of crime, is specially directed to meet this evil.

The Prison Act, 1898, has also been of historical interest as being the last deliberate decision of the legislature on the vexed question of Corporal Punishment in Prisons. Previously to the Act, a sentence of Corporal Punishment could be awarded in Convict Prisons by one of the Directors, and in Local Prisons by the Visiting Magistrates for any serious offence against prison discipline, and subject to no confirming authority. It is now strictly limited as a penalty for gross personal violence to prison officers, and for mutiny, or incitement to mutiny, and then only in the case of prisoners convicted of felony or sentenced to hard labour. A sentence can only be imposed by a tribunal consisting of not less than three persons, two of whom must be Justices of the Peace, and the order for corporal punishment from such tribunal cannot be carried into effect until confirmed by the Secretary of State, to whom a copy of the notes of evidence and a report of the sentence, and of the grounds on which it was passed, must be furnished. Experience has justified the wisdom of this enactment, which affords a sufficient guarantee against excessive, or unnecessary, exercise of the powers of corporal punishment. It has not been found that the discipline of prisons has suffered, while a due security exists for the protection of prison officers from violence. Public sentiment, which had previously been uneasy on the question of flogging in Prisons, has accepted the present limitation of power as a just and reasonable solution for what has always been a very vexed and difficult question of prison administration.

Again, a change of far-reaching importance in its effect on the discipline and management of Local Prisons was introduced, *viz.* :—the power given to short-term prisoners to earn remission of their sentence by special industry and good conduct. Prisoners whose sentence is for over one month are now able to earn remission of a portion of their imprisonment not exceeding one-sixth of the whole sentence. The power to earn remission has always existed in the case of persons sentenced to penal servitude, where the minimum sentence is three years, and its great value, both as an incentive to industry and good conduct, and as furnishing an element of hope and encouragement under long sentences, has always been recognized. The expectation that the translation of this privilege to the Local Prison System would operate in the same way has been justified by experience.

Hitherto, the stimulus to industry and good conduct in Local Prisons had consisted only of the privileges that could be earned under the Progressive Stage System, in the shape of more letters and visits, and more library books, and larger gratuity. Gratuity, however, did not exceed the sum of ten shillings, whatever the length of sentence. It was, therefore, only prisoners under the longer sentences, presumably those guilty of grave offences, that could benefit to any extent under the Gratuity System—some twenty per cent. of the whole. Moreover, the risk or fear of losing remission marks operates as a powerful deterrent against idleness or misconduct, and it has been found, generally, that under the influence of this salutary provision there has been a marked improvement in the tone and demeanour of the prisoners, while, at the same time, an aid has been furnished to those responsible for maintaining order and discipline.

Such, broadly, were the changes introduced by the Prison Act, 1898. Though a short Act of a few Sections, it has profoundly affected the whole of the Prison administration. It seems to have been accepted by public opinion as a reasonable solution of many difficult questions which had been the subject of criticism, and which led to the outcry against the policy of the administration

which had followed the Prison Act, 1877.

Ten years passed before further legislation respecting Prisons was passed. The Prevention of Crime Act, 1908, is of paramount interest as giving effect to the two principal proposals of the Committee of 1894, *viz.*:—special treatment of the young, and the habitual criminal, respectively, but it does not affect the Prison régime, as applied to other categories of criminals, and, so far as it relates to these two special categories, is dealt with in separate chapters.

Since this chapter was written, the Criminal Justice Administration Bill, 1914, has become law. The great effect of this valuable measure is shown in my later chapter No. XVII. dealing with statistics of crime. It will there be seen how largely prison statistics have been affected by the obligation now imposed on Courts to allow time for the payment of fines. The offences for which a fine is imposed are presumably of a trivial character, but by long custom and usage, the practice of almost automatic commitment in default had grown to such a large extent that the intervention of Parliament proved necessary. That the principle of Imprisonment, and all that it connotes, both of shame and stigma, should depend upon the accident whether or not a small sum of money could be provided for payment of a fine at the moment of conviction, is obviously contrary both to reason and to justice. It is now laid down that where any prisoner desires to be allowed time for payment, not less than seven clear days shall be allowed, unless, in the opinion of the Court, there is good reason to the contrary. It is also laid down that in all cases where the offender is not less than sixteen nor more than twenty-one years of age, the Court may allow him to be placed under "Supervision" until the sum is paid. This provision is intended to meet the admitted evil of committing young persons under twenty-one to Prison where the offence is only of a trivial nature, due, in many cases, to the rowdy and irrepressible instincts arising rather from animal spirits, and the absence of proper control, than to any deliberate criminal purpose. It is proposed to create a new Society, whose business it will

be to provide the necessary supervision, and to act, as it were, as an auxiliary to the Courts in furnishing a guarantee that the offender shall either pay the fine or, if after reasonable means of suasion and influence shall have failed, shall be returned to the jurisdiction of the Court to be dealt with in a severer manner. By this special provision for young persons, 16—21, who have hitherto come to Prison in such large numbers, the Act recognizes and extends the principle of the Borstal System—the principle of which, as I shall explain later, is to concentrate attention on the young offender at this plastic age, when the tendency to criminal habit can be arrested and diverted before it is too late, and before familiarity with Police Courts and Prisons obliterates the fear and terror of the law, thus rendering easy an almost certain descent and further degradation to a life of habitual evil-doing. The Act, moreover, as explained in a subsequent chapter, extends the application of the Borstal System, as prescribed by the Act of 1908.

As a further provision against the admitted evil of short sentences of Imprisonment, it is enacted that no imprisonment shall be for a period of less than five days. Power is given to the Secretary of State, on the application of any Police Authority, to certify any police cells, bridewells, or other similar places provided by the authority, to be suitable places for the detention of persons sentenced to terms not exceeding four days, and may make regulations for the inspection of places so provided.

With the object of further modifying what, under the influence of long custom, has become an almost mechanical use of awarding imprisonment with hard labour, it is provided that any imprisonment in default of payment of a sum of money shall be, in the future, *without* hard labour, and in other cases, where a commitment is without the option of a fine, the Court has a discretion whether or not hard labour shall be imposed. In order to give a fuller application to the Act of 1898, as before described, *viz.* :—that the classification of prisoners should be into three Divisions, according to character and antecedents, power is given to the Visiting Committee of

Prisons, on the application of the Governor, to direct that, in any suitable case, the prisoner may be placed in the Second Division, where, in the absence of any instruction of the Court to deal otherwise, he would be located in the Third Division.

It is anticipated that this Act will have far-reaching effects (1) in the avoidance of imprisonment where the offence can be adequately met by money payment : (2) in the saving from the taint of imprisonment in the early years, by placing under responsible supervision and care, any young person under twenty-one, who, under the old system, would become familiar with prison surroundings : (3) by extending and strengthening the provisions of the Borstal Act, 1908, and (4) by making effective the classification of ordinary prisoners, aimed at by the Prison Act, 1898, and by adapting their treatment and segregation during imprisonment according to their antecedents and the character of their offence.

CHAPTER VIII.

THE BORSTAL SYSTEM.

The little village of Borstal, on the banks of the Medway, not far from Rochester, has given its name to a system which is now being universally applied, not only at home, but in our Dominions, for the treatment of young offenders, 16—21.

It happened in this way. In this village was situated an old Convict Establishment, formerly used as an annexe to Chatham Convict Prison. There were still a few convicts there; but there was available space for an experiment, which it was decided to make (and which is described later) for the special location and treatment on reformatory lines of young prisoners, 16—21, selected from the ordinary Prisons, where the length of sentence afforded a reasonable time for the application of the system.

The title “Juvenile-Adult” was invented to describe the class—too old for commitment to Reformatory Schools, and too young to be classified with the ordinary grown-up criminal.

The average number of youths of this age committed to Prisons in England and Wales in the opening years of this century was about 19,000. For one year their distribution was as follows:—

16 years	...	...	...	2,898
17	„	...	...	4,099
18	„	...	...	5,550
19	„	...	...	5,576
20	„	...	...	5,130

Some light was thrown on the character and antecedents of this class of young criminal by an inquiry made with regard to the offences, previous convictions, homes, and educational status of all male prisoners in the Prisons of

England and Wales, on a given day, within the ages of sixteen to twenty-one. The total number was 1,238. Nearly two-thirds were guilty of crimes of acquisitiveness, *i.e.*, larceny, burglary, housebreaking, embezzlement, &c. One-fifth of crimes of passion, *i.e.*, sexual offences, assaults, and wounding. There were twenty cases of malicious injury to property, and the remainder were convicted of minor offences against bye-laws, &c. With regard to their education, ninety had none, 512 little, 496 fair, and 111 good. Of the total number, 280 had good homes, but 198 had none at all; 138 had bad ones, and thirty lived in common lodging houses. Only 330 were without previous convictions and 353 had two or more.

At the same time, Dr. Baker, of Pentonville Prison, conducted a most interesting inquiry with regard to the young offenders between sixteen and twenty, who passed through Pentonville Prison in the course of a year. The total was 2,185. Physically, as a class, they were two-and-a-half inches below the average height, and fourteen lbs. less than the average weight. Twenty-six per cent. were afflicted with bodily infirmity. The majority of the offences were of a grave character, offences against the person and against property without violence. Twenty-two per cent. were imprisoned for larceny alone, the various crimes of "acquisitiveness" being characteristic of this age; while in the aggregate *thirty-four* per cent. had been previously convicted (no less than 144 on three or more occasions). In the case of offences against property, with and without violence, and vagrancy, the re-convictions were 50, 40, and 45 per cent. respectively.

Public attention has also been called to the large number of indictable offences, and of larceny in particular, committed by persons of this age. Criminal statistics are dominated by the rise or fall in offences of larceny, and this age-category contributed nearly 30 per cent.

The Committee of 1894 made an emphatic declaration in favour of some action being taken to deal specifically with this class. They reported:— "The age when the majority of habitual criminals are made lies between 16 and 21. It appears to us that the most determined effort should be made to lay hold of these incipient crim-

"inals, and to prevent them by strong restraint and rational treatment from recruiting the habitual class. We are of opinion that the experiment of establishing a Penal Reformatory under Government management should be tried, and that the Courts should have power to commit to these establishments offenders under the age of 23, for periods of not less than one year and up to three years, with a free exercise of a system of licence."

The proposal to found a State, or Penal, Reformatory, confirmed and emphasized the opinion that had been rapidly gaining ground, both in England and abroad, and especially in the United States, that *up to a certain age*, every criminal may be regarded as *potentially* a good citizen: that his relapse into crime may be due either to physical degeneracy, or to bad social environment: that it is the duty of the State at least to try and effect a cure, and not to class the offender off-hand and without experiment with the adult professional criminal.

It seems difficult to believe that, until recently, a lad of 16 was treated by the law, in all respects, if convicted of any offence, as an ordinary adult prisoner, and that for lads of this age, the principle had not been recognized that a long sentence of detention under reformatory conditions can be justified, not so much by the actual offence, as by "the criminal habit, tendency, or association" (Section 1 (b), Borstal Act, 1908), which, unless arrested at an early age, must lead inevitably to a career of crime.

But the fixing of criminal majority at 21 has only been arrived at after a long struggle. It is about a hundred years ago since certain benevolent persons, struck by the wrong of sending the young to prison, if it could be avoided, founded the Colony of Stretton in Warwickshire in 1815, which had for its express purpose the reclamation of criminal youth between the ages of 16 and 20. The process by which they conducted their benevolent efforts was curious, for they took advantage of an ancient law by which young persons might be hired out in husbandry, and they applied to the County Authorities to hire them out young prisoners of this age, with a view to their conversion into honest and useful citizens. So far as I have been able to gather from the

history of Juvenile Crime, no other attempt was made, either then or for many years to come, to grapple with this problem of Juvenile delinquency. Though it is stated on the authority of a great philosopher that "the angel of Hope came down from heaven in the first decade of the nineteenth century," it does not seem that her influence began to be felt at that time in Penal and other legislation; it was some years after the first decade of the last century that Sir Samuel Romilly complained that it was more easy to get an attendance of Members at the House of Commons to listen to a Debate on a new archway for Highgate or a new Water Bill for Holloway, than to any proposals that he might have to make in the direction of Penal Reform.

It is true that some years later, in 1838, under the auspices of Lord John Russell, then Home Secretary, an Act was passed for the establishment of a Prison at Parkhurst for young offenders. The public conscience had begun to be stirred by the terrible sentences of transportation passed on mere children and youths for periods of as much as 15 to 20 years for what we should now regard as petty offences. The Parkhurst Act of 1838 contained a Clause which has become historical and is known as the "Pardon" clause. By this, the Secretary of State was able to pardon any young person sentenced to transportation on condition that he should place himself under the charge of a benevolent Association. The benevolent Association of those days was known as "The Philanthropic Institution", which was the parent of the famous Red Hill Reformatory School of to-day.

The number of lads, however, sent to Parkhurst was comparatively few, and the absence of any means of dealing with the great mass of Juvenile delinquency began to be recognized by thoughtful and humane persons, and, in 1847, a Parliamentary Committee was appointed to enquire into the question of Juvenile Crime. It was before this Committee that the Authorities of the Stretton Colony gave remarkable evidence which, at the time, came as a new light to a generation whose imagination had not yet been quickened to perceive the possibilities of reform in the case of youthful prisoners. They stated in

evidence that "their experience had been with prisoners between the ages of 16 and 20 with whom they had been dealing since 1815, and that no less than *60 in every 100 might be permanently reformed and restored to Society*, whereas the ordinary prospect that awaits these youths under the ordinary Prison System is a life of degradation, varied only by short terms of Imprisonment, and terminating in banishment or death." It may be that the eyes of the Committee were opened by this simple statement of fact. We know that they took a step which is of singular historical interest. They formally consulted the High Court Judges as to the possibility of introducing a reformatory element into Prison Discipline. The High Court speaking in the name of its most distinguished members, Lord Denman, Lord Cockburn and Lord Blackburn, declared reform and imprisonment to be a contradiction in terms, and utterly irreconcilable. They expressed a doubt as to the possibility of such a system of imprisonment as would reform the offender, and yet leave the dread of imprisonment unimpaired.

*many
of them
being*

Though this was the legal and official view at the time, there were fortunately other voices heard during the progress of this enquiry, the voices of less distinguished men and women, but of those whose names will be recorded in history as the pioneers and the workers in the field that eventually led fifteen years later to the establishment of our Reformatory School system. I refer to such persons as Davenport Hill, Sir Joshua Jebb, Miss Carpenter, Monkton Milnes, Captain Machonochie, Mr. Sergeant Adams and Mr. Sidney Turner.

*Reform school
1854*

The passing of the Reformatory School Act of 1854 marked the climax of the efforts of that generation. They had established the principle that the young offender, *at least up to the age of 16* should be dealt with by other than the methods of Prison or Transportation. This was a great victory at the time, and for many years public opinion regarded the Reformatory School Act as the last word spoken on the subject of juvenile delinquency. There were others, however, and among them Mr. Sidney Turner, who regarded that Act only as a stepping stone to further progress. *The age of 16* which for so many years

was consecrated as the age at which criminal youth ends and criminal majority begins, he described more than once '*as a mere measure of precaution*'; and a stage on the road to lead to further developments. The age of 16 was adopted at that time by universal consent for no other reason, so far as I can gather, than that it was the age of 'criminal majority' in the French Penal Code, and it had become notorious owing to the success of the French Colony of Mettray, established in the 'thirties' and which prescribed 16 as the age of 'discernment' under French Law.

The age of 16, therefore, became crystallised as the age of criminal majority in this country. Attempts were made from time to time to have the age raised to 18, but the conflict of opinion on this point waxed very fierce, some maintaining that the admission of older youths would corrupt the rest, while others asserted that an enormous number of youths now being sent to Prison at the age of 16 might be reclaimed, if subject to reformatory influences. This battle waxed fierce in the early 'eighties' and although, in my opinion, the best argument was on the side of those who desired an extension of age, yet by one of those curious results that sometimes issue from the Parliamentary Machine, the only legislation affecting the age of the inmates of Reformatory Schools is known as Lord Leigh's Act of 1891, which, instead of giving greater powers to Reformatory Schools, limited the right of detention to the age of 19 years, whereas it had formerly been 21. The question of age, however, was not destined to remain in abeyance. Other causes than the conflict of opinions between Managers of Reformatory Schools brought this question very prominently to the front a few years later.

It came to the front incidentally, as I have already stated, in the findings of the Prison Committee of 1894; and of the Reformatory Schools Committee of the same year. Both Committees arrived at the same conclusion almost simultaneously, viz:— that 16—21 was the dangerous age: that attention must be concentrated on that: that we must try and lay hold of the incipient criminal, or as we call him in prison language, the Juvenile-Adult.

It was at this time that I was appointed by the Home

Secretary (Mr. Asquith) to be Chairman of the Prison Commission, against which so severe an indictment had been laid, as explained in a former Chapter, of being indifferent to the moral welfare of prisoners. My experience and observation had already led me to form a very strong opinion that the Penal Law, which classified forthwith as adult criminals lads of 16, was unjust and inhuman. I obtained the authority of the Home Secretary, Sir M. Ridley, who was in warm sympathy with my views, to go to the United States in 1897 to study at Elmira the working of what is known as the American "State Reformatory System." The annual reports of the authorities at Elmira had begun to attract considerable attention in Europe. The American System classified as youths all persons between the ages of 16 and 30. While we classified our boys as adults, the American adopted the converse method, and classified his adults as boys. I thought myself that the truth lay midway between these two systems, between the system that ends youth too early and that which prolongs it too late, between the voluntary system of England and the State Reformatory System of the United States. The point I was aiming at was to take the 'dangerous' age—16-21—out of the Prison System altogether, and to make it subject to special "*Institutional*" treatment on reformatory lines.

I was impressed by all that I saw and learnt at the principal State Reformatories of America, at that time chiefly in the States of New York and Massachusetts. The elaborate system of moral, physical, and industrial training of these prisoners, the enthusiasm which dominated the work, the elaborate machinery for supervision of parole, all these things, if stripped of their extravagances, satisfied me that a real, human effort was being made in these States for the rehabilitation of the youthful criminal. It was on my return that, with the authority of the Secretary of State, the first experiments were begun of the special treatment, with a view to the rehabilitation of the young prisoners, 16 to 21, in London Prisons. A small Society was formed, known as the London Prison Visitors' Association, to visit these lads in the London Prisons: (they were removed later, as stated, to the old

Convict Prison at Borstal). The procedure was to visit Borstal by roster each month, and interview the cases about to be discharged in the following month, so that the best arrangements might be made. Out of this small body of visitors sprang the Borstal Association, and it is interesting now, looking back to that time, to recall the circumstances under which this Association was founded. There was in the public mind a great confusion as to the exact meaning of the phrase "Juvenile Offender". That ambiguity has since been largely cleared up by the definitions of the Children Act, but, at that time, there was a confusing medley of appellations; and children, young persons, and youthful offenders, were all jumbled together in the same category. The specific proposal was to deal with the age, 16 to 21, and it was decided, in order to emphasize this fact and make a clear distinction between this age and all other ages, to make use of the word "Borstal", that is, the name of the village where the experiment was being carried out. I think that this appellation has been singularly fortunate in its results, as it has made it quite clear that we are not dealing with the youthful offender as usually conceived, that is, a boy, or even a child, who may have lapsed into some petty or occasional delinquency, and who was being sufficiently provided for by the Reformatory School Acts and by the Rules concerning juvenile offenders in prisons. Our object was to deal with a far different material, the young hooligan advanced in crime, perhaps *with many previous convictions*, and who appeared to be inevitably doomed to a life of habitual crime.

We had, in the Association of Visitors in London Prisons, a nucleus in forming the now well-known Borstal Association. Among them were two young barristers, living in chambers, who placed their time and their rooms at our disposal. They were Mr. Haldane Porter and Mr. (now Sir Wemyss) Grant-Wilson, the first and the second Honorary Directors of the Association. We had little or no money. The Treasury gave us £100 a year. An appeal, addressed to the public through the columns of "The Times", met with only a disappointing result; but later an appeal to personal friends for a small annual

subscription, rather than a donation, was successful to this extent, at least, that we were able to rely on a small income with which to conduct our operations. By this means, we obtained an income of some £400 or £500 a year, and to those kind and generous friends who helped us at that critical moment, the success of the movement is principally due.

Having established an Association, we next had to establish a system. The object of the System was to arrest or check the evil habit by the '*individualization*' of the prisoner, mentally, morally, and physically. To the exhortation and moral persuasion of a selected staff, we added physical drill, gymnastics, technical and literary instruction: inducements to good conduct by a system of grades and rewards, which, though small and trivial in themselves, were yet calculated to encourage a spirit of healthy emulation and inspire self respect. Elaborate rules for giving effect to the system were introduced by the Authority of Parliament, but at this stage, Parliament had not recognized the system in any other way, and *we had to work within the limits which existing Penal law afforded*: that is, the cases we dealt with were by the *transfer* of young prisoners of this age, who happened, for their particular offence, to have been awarded sentences of imprisonment for *six months and upwards*. It soon became clear that the *element of time*, that is, a longer sentence than the law permitted, was essential for the success of the scheme. Experience showed that something may be done in twelve months, little or nothing in a shorter period, that the system should be one of stern and exact discipline, tempered only by such rewards and privileges as good conduct, with industry, might earn: and resting on its physical side on the basis of hard, manual labour and skilled trades, and on its moral and intellectual side on the combined efforts of the Chaplain and the Schoolmaster. Such a sentence should not be less than three years, conditional liberation being freely granted, when the circumstances of any case gave a reasonable prospect of reclamation; and when the Borstal Association, after careful study of the case, felt able to make fair provision on discharge.

It was in 1906, when an experience of four or five years had established these principles, that I addressed a strong representation to the Secretary of State, asking for an alteration of the law on these lines: and in 1908, thanks to the cordial agreement with these views, manifested at that time both by the Secretary of State (Lord Gladstone) and the Chancellor of the Exchequer (Mr. Asquith), these principles became law under the Borstal Act of 1908. The system in vogue to-day is a legal system: it has passed beyond the experimental stage, and has become a part, an important part, of the criminal law of this country, and not of this country only, but is a prototype of analogous Institutions which have been established in many parts throughout the civilized world. The system, as it operates to-day, is the same in its leading features as the experimental system prior to the Act. The principles are the same, but we now have the element of time. We have now no case of less than two years, and a considerable number with the maximum of three years.

During recent years the annual committals to Borstal Detention have averaged nearly 600 for males and 180 for females, and three Borstal Institutions have been established—Borstal and Feltham for males, accommodating about 400 each, and Aylesbury for females. These Institutions are fulfilling in an admirable way the purpose for which they were created, *viz.*,—to furnish the opportunity by which many young persons who have ceased to be “young offenders” (*i.e.*, under sixteen years) and who are not yet fully developed adults (*i.e.*, over twenty-one) may be rescued from a life of crime. The high tone and character of the superintending staff, untiring in the efforts which they devote to the moral, literary, and technical education of inmates: the healthy rivalry stimulated by competition, not only in the schools, but in the playground (for it is the privilege of the Special Grade to take part in games of football and cricket): the great care devoted to the physical well-being and training in Gymnastics, &c.—experience is daily showing that all these things are having the effect of arresting in his downward career the young, and often dangerous, criminal between the ages of sixteen and twenty-one, who, until

the necessity of special legislation to deal with his case was recognized by public opinion, only served an apprenticeship in a succession of short sentences for trivial crime in his early days, in order to qualify for entry into the ranks of habitual crime.

For the purpose of permanent rehabilitation, the Borstal Association has taken these lads in hand on discharge and led them into the paths of honesty, and industry, and employment; and statistics furnished shortly before the outbreak of war concerning 1,454 cases discharged on licence since the Act of 1908 came into force showed that only 392, or twenty-seven per cent., had been reconvicted. It is commonplace to assert that a good system of "*Patronage*," or aid on discharge, is a necessary complement to the Prison System; but, generally speaking, Aid Societies, either from the number of persons with whom they have to deal, or from insufficient resources, fail to deal except with a very small proportion of cases; but the Borstal Association takes *all* cases, and spends time and money equally on each, despairing of none, and maintains a long and continuous record and subsequent history of each case. Behind this highly organized method of care and supervision lies a great and a sincere humanity, which prevents the work degenerating, as is too often the case, into a hard and mechanical routine. The Borstal System, by itself, would not work wonders, nor by itself, eradicate the vicious or anti-social elements from the young criminal heart; but a system of strict control and discipline while under detention, followed up and supported by a real and effective system of "*Patronage*" on discharge, ✓ furnishes the secret of the considerable success that has been obtained. The same spirit which animates the system is also being manifested in our Probation and Children Laws; and to it can be ascribed the marvellous reduction of juvenile crime during the twenty years prior to the war.

The application of the System to young women is dealt with in the Chapter (*infra*) on Female Offenders.

It is a great satisfaction to those who have directed so much effort to building up the Borstal System that the Lord Chief Justice, presiding over the Court of Criminal Appeal, should have stated recently that the Court are of

opinion that "Borstal Institutions are of the greatest assistance to the lads committed to them, and may, and often do, save them; and also the three years, which is the term that is permitted, is, in the absence of exceptional circumstances, the right term, as it does give the lad that chance which very often a shorter term does not afford him."

Independently of the law of 1908, there is in operation a so-called "Modified" Borstal System at *all* Prisons, in all parts of the Country, and special Rules regulate the detention, and "Borstal Committees" devote themselves to the after-care of young prisoners of both sexes between the ages of sixteen and twenty-one, whatever the length of sentence. The object of the System for males is to apply, as far as practicable, having regard to the length of sentence, the methods followed at Borstal Institutions, for the special treatment of offenders 16—21 sentenced to imprisonment. The shortness of sentence, of course, operates against any manifest result, but experience has shown that with lads of this age much can be effected by close personal interest and oversight on the part not only of the prison authority, but of voluntary workers. The longer sentences are transferred to collecting depôts. The System provides for two Grades, Ordinary, and Special. To pass from the Ordinary to the Special Grade, a juvenile-adult must earn 300 "merit marks", the maximum number being 25 a week; In the Special Grade he may receive a good conduct stripe after serving a month with exemplary conduct, which entitles him to a special gratuity. Cases sentenced to *less* than 3 months are not transferred to a Collecting Dépôt, but are specially located and segregated from adult offenders at the prison of committal. Both categories receive daily drill and exercise, and are associated at labour. If the conduct and industry of an inmate are satisfactory, he may receive a gratuity not exceeding £2. Remission of sentence is not granted, except when specially recommended by the Borstal Committee. Special attention is paid to the education of all cases, by instruction in class and by lectures on secular subjects. During the year 1919—20, 1130 males were committed to prison with sentences of

3 months and over, and 2,261 with sentences of less than 3 months.

At all Prisons, Borstal Committees are set up to deal with this particular class of delinquent. They are composed of members of the Visiting Committee, who may co-opt for the purpose members of the Discharged Prisoners' Aid Societies, and any other influential person, of either sex, interested in the treatment and reclamation of the young. It is a splendid testimony to the efforts made by the members of these Committees throughout the country to rescue lads from a life of crime that, out of 2,126 dealt with during 1918, 1,734 or 81 per cent. were well placed on discharge, while some Committees were able to place the whole of their cases in suitable employment. In the case of young females, the difficulties encountered on discharge are more formidable, but of 913 dealt with during the year, 406 were suitably placed, and 160 returned to their friends.

In the case of young Convicts, also, sentenced to penal servitude, as already stated, Rules provide for the collection of this category at Dartmoor, where they are strictly segregated from the ordinary prison population, and are treated, so far as conditions permit, according to the principles of the Borstal System. On discharge moreover, they are specially committed to the care of the Borstal Association.

It will be seen, therefore, that the Borstal net is now wide-spread, and embraces the whole of the Prison population, male and female, between the ages of 16 and 21. Now that this differentiation according to age has become a fact, it is regarded almost as a commonplace that no person under the age of 21 should be treated under Rules applicable to adults. Yet this simple proposition is of quite recent origin. Twenty years ago, not only were all offenders under 21 years of age mingled with the general herd to be found in our Prisons, but many young persons under the age of 16. So quickly, and so easily, do reforms based on reason, and justice, and humanity—although at the time encountering the resistance and opposition that comes of prejudice and custom—commend themselves to public approval.

Such then is the short history of what is well-known as the Borstal System. It is, in the abstract, an attempt to give expression by the executive dealing with crime, to the natural and scientific law that, up to the age of 21 (the age of civil majority for the ordinary affairs of life), neither the human mind nor the human body is fully formed and developed, but is still plastic and receptive of good influences, skilfully and carefully applied. It is, in the concrete, a simple system of firm and exact discipline, tempered by an ascending scale of rewards and privileges which depend upon industry, conduct, and special merit. The Instructions for the treatment of inmates will be found in the Appendix, and give the details of the system,—a system of grades, with an ascending scale of privileges—the passing from a lower to a higher grade, only to be achieved after a sufficient period of test and observation by supervising authority. The ‘Tutors’ are a special feature of the Institutions. They are in a sense House-masters, or Masters of Sections or Wings of inmates. They are selected for their special qualifications for dealing with lads of this age and character, each of whom it is their duty to ‘individualize,’ *i.e.*, to observe closely. They have an important position in the establishment, having the rank and status of Deputy Governors. They constitute a sort of advisory council to the Governor, advising as to claim and fitness to pass from one grade to another. They are at the same time, the friend and counsellor of the inmate, and the adjutant to the Governor in maintaining a strict discipline, and a due observance of order and method in every particular. They are also, under the presidency of the Chaplain, the educational authority of the establishment, being responsible for the method both of elementary and advanced teaching.

Though it will be seen that the rewards and privileges of each grade are of a simple nature, yet they are a sufficient stimulus to the majority of these lads to ‘gain their blue,’ as it is called. They are simple devices for cultivating self-respect in a field where that tender plant has never hitherto been sown. But it is in the simplicity of these things that their value lies. (Many of these lads are

total strangers to the most elementary refinements of civilized life; and so we inculcate the principle that by working hard and behaving well, a reward which brings comfort and pleasure follows upon the effort made. Here then we lay the first brick in building up character. The Borstal lad is regarded as a piece of "human masonry," and every one works with a will to turn out a creditable piece of work while the lad is in their hands. They are laying bricks all the time, till the *fatal* day of liberation comes—*fatal* because the Borstal System depends essentially for its success upon the Aid-on-discharge which Aid Societies, individually and collectively, can and will render. If the crime in this country is going to be diminished, effort must be concentrated on the young. It must be seen that the piece of masonry which we have built up does not fall to pieces, like an Egyptian mummy, immediately it comes into contact with the outer air of liberty. But the best-conceived regulations will not, by themselves, effect much. It is the personal influence of the Superintending Staff, from the Governor downwards, which is the thing that matters. To understand the Borstal System it is not enough to read about it in a book: you must see it in actual operation,—the keen activity that pervades the establishment: the admirable order and precision of the parade ground: the swing-and-go of the gymnasium: the busy hive of industry in all its multifarious departments: the educational classes and chapel services, the lecture room; and when the time for recreation comes, the glow and keenness of the youngsters in the football or cricket field. Given the material we work with, at first slow, stubborn, impenetrable, with no outlook in life but that of criminal adventure, with its gamble—but its ultimate certain doom, the Prison—any impartial visitor will, I think, agree that here is a wonderful metamorphosis—the conversion of the inveterate gaol-bird of a few years ago to a strong, well-set-up, well-drilled handy English lad, with respect for authority, with a new birthright, qualifying him to enter the ranks of honest, industrious labour. Such a conversion in a few cases would amply justify the system, and all the expense and labour it has entailed; but when the records

of the Borstal Association can show that this conversion takes place in many cases, it must indeed be a great encouragement to all engaged in social work, even in the most difficult places, that such results will certainly follow upon healthy influences, steadily and wisely applied.

The principle of the Borstal System received an important extension by the provisions of Section 10 of the Criminal Justice Administration Act, 1914. The condition that the particular offence must be indictable being removed, largely widens the scope and operation of the System. The same Act also raises the minimum period of detention, and extends that of "Supervision" after discharge. Considerable advantage is being taken of Section 10 since it became law, no fewer than 211 males and 42 females having been dealt with under its provisions in 1919—20.

CHAPTER IX.

THE HANDMAIDS OF THE PRISON SYSTEM:—

- (1) THE CHILDREN ACT, 1908:
 - (2) THE PROBATION ACT, 1907.
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(1) THE CHILDREN ACT, 1908.

The passing of the Children Act, 1908, which practically forbids imprisonment before sixteen years of age, marks the last stage in that slow and tedious journey which had to be undertaken by many devoted men and women who were conscious of the grave evils resulting from imprisonment, before it was generally realized that it was not by throwing children and young persons automatically and indiscriminately into gaol, that the grave problem of juvenile delinquency was going to be solved.

The Children Act, 1908, known as the "Children's Charter", revolutionized the penal law of this country, so far as the imprisonment of young persons under the age of sixteen was concerned. In the English law there is a conclusive presumption that children under seven years of age cannot have *mens rea*, and so cannot be made liable to be punished by criminal law. Between seven and fourteen years that presumption is no longer conclusive. Guilty knowledge may be shown by the fact of the offender having been previously convicted of some earlier offence, or even by the circumstances of the present offence. Full criminal responsibility is presumed at the age of fourteen. The Children Act, without reference to the question of criminal responsibility, prescribed a clear distinction between offences committed by *children*, i.e., persons under the age of fourteen, and *young persons*, i.e., between fourteen and sixteen. Neither "children" nor "young persons" i.e., no person under the age of sixteen, can now be sent to penal servitude or to imprisonment unless the Court certifies in the case of

a young person, 14—16, that he is of so unruly a character that an alternative form of punishment is not desirable. Offenders under sixteen cannot be sentenced to death, but may be detained during His Majesty's Pleasure. Those guilty of grave crime, such as attempt to murder, manslaughter, &c., can be detained in such places, and under such conditions, as the Secretary of State may direct. The effect of this Act is, therefore, to withdraw all persons under sixteen entirely, or almost entirely, from the control of the Prison Authority. In lieu of detention in Prison, the Act creates "Places of Detention", to be established by the Police Authority of the district, the expense of maintenance being divided between the Police Authority and the Treasury. Young offenders may be committed to such Places of Detention for any period not exceeding one month, or on remand or committal for trial. Such establishments are subject to regulations and inspection by the Secretary of State. The Children Act, 1908, consolidated the law as to Reformatory and Industrial Schools, and, at the same time, introduced other amendments, *e.g.*, that no child under twelve should be sent to a Reformatory School: children under that age may be sent to Industrial Schools, notwithstanding any previous conviction recorded against them: power is given to the Secretary of State to transfer from a Reformatory to an Industrial School, and *vice versa*: power of control and supervision of cases up to the age of 19 is given to managers of Reformatory Schools where the term of detention expires earlier: earlier licensing in the case of Industrial Schools is permitted: and statutory reference is also made for providing special Reformatory and Industrial Schools for physically and mentally defective cases.

For some years prior to the passing of the Children Act, 1908, those interested in the welfare of the young had been trying to secure the hearing of charges against juvenile delinquents in Courts of Justice apart from those of adults. In 1905, several large towns had taken this step. At Birmingham, the first separate Court for children's cases was established in April, 1905, to which was attached the first Probation Officer for children.

In the same year, the Secretary of State issued a

circular to Magistrates pointing out the evil resulting from contact with the more depraved and criminal adults, and asking them to consider what steps could be taken to prevent such contamination by securing their protection at Police Courts during the hearing of their cases.

One of the recommendations of the Inter-Departmental Committee on Physical Deterioration, 1904, was that, whenever possible, in cases touching the young, where the assistance of a Magistrate was invoked, he should be a person specially selected, sitting for the purpose. In a Circular to Justices in 1909, explanatory of the provisions of the Children Act relating to the establishment of Children's Courts, the Secretary of State expressed the opinion that it was desirable, where possible, that the formation of Juvenile Courts should be assigned to a separate rota of Magistrates who possess, or who would soon acquire, a special knowledge of the methods of dealing with juvenile crime and of institutions for juvenile offenders.

On the passing of the Children Act, 1908, special Courts, called Juvenile Courts, were created for dealing with charges against children or young persons. Such Court may be either in a separate building, or in a room of an ordinary Court House. No person, other than members or officers of the Court or parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, may be allowed to attend, and means must be taken for preventing young persons while in attendance at the Court, or being conveyed to or from Court, from associating with adults. The chief methods for dealing with children and young persons charged with offences enumerated in Section 107 of the Act, are:—

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or
- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an industrial school; or

- (f) by sending the offender to a reformatory school; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (k) by committing the offender to custody in a place of detention provided under the Act; or
- (l) by dealing with the case in any other manner in which it may be legally dealt with.

Since 1910, the number of cases dealt with in Juvenile Courts has risen from 33,598 to 49,915 in 1918, the increase having taken place chiefly since the outbreak of war. Included in the latter total were 28,843 boys and 1,364 girls under the age of 14. Statistics show that a conviction is recorded in about 50 per cent. of the number dealt with annually, the majority of which are disposed of by fine, whipping, or committal to a Reformatory School. Of those cases in which the charge is proved, though no order made for *conviction* (about 35 per cent.) the bulk of the cases are disposed of by Probation, Recognizances, Dismissal, or committal to an Industrial School. Only in the number who were placed on Probation, and in the number whipped, is there any great variation since 1910 in statistics as to the manner in which cases were dealt with, as shown above. In the case of probation, in 1910 3,568 cases or 10·6 per cent. of the total dealt with, were so disposed of: in 1918, the number had risen to 5,868, or 11·8 per cent. of the total. A large rise is shown in the number who were whipped, viz:— 1,562 in the former year, and 3,593 in the latter, or 11·9 and 13·1 per cent, respectively, of the total *convicted*. In 1913 (the latest figures available), 6,972 children and young persons, dealt with in Juvenile Courts, were committed to Places of Detention, 4,073 of whom were on remand, 1,910 to await removal to Industrial Schools, 11 to await trial, and 147 under sentence. Nearly sixty per cent. of the total cases were committed from the Metropolitan Police District and Liverpool.

Public concern is not, however, only with the delinquent child. It is also with the many thousands of children who are the subject of physical or mental defect, or of insufficient care and supervision during the age of adolescence. During that period, after having left the public elementary schools, boys and girls are thrown into the outer world to earn what wages they can without regard either to the special aptitude they may possess, or to any security that the occupation they choose is one in which they have any chance of remaining permanently employed. It has become manifest to those dealing with young offenders on discharge from Prison, or other Institutions, that one of the principal causes leading to the commission of criminal acts is to be found in what is generally known as "blind-alley" employment, *i.e.*, employment obtained casually and thoughtlessly by young persons on leaving school in which they cannot be maintained on attaining maturity.

It was not till 1893, or more than twenty years after the principle of compulsory elementary education had been established, that Blind and Deaf children were made the special concern of the legislation. It was later still than this that the case of the Defective and Epileptic child engaged the attention of Parliament; but the Elementary Education (Defective and Epileptic Children) Act, 1899, did not go beyond prescribing that it should be the duty of the Local Education Authority to ascertain the existence of such children. It was left to the option of the Local Authorities whether or not the provisions of the Act for their special treatment should be adopted, and a large number of Education Authorities failed to respond.

The Mental Deficiency Act, 1913, however, makes it the duty of every Local Education Authority

- (1) to ascertain the existence of mental defect of such kind or degree as to justify the diagnosis of feeble-mindedness, imbecility, or idiocy;
- (2) to determine whether a child diagnosed as feeble-minded is or is not capable of benefiting from education in a Special School, and;
- (3) to notify to the Local Authority under the Act,

all defective children over the age of seven (*a*) who are incapable of education in Special Schools; (*b*) who, though educable, are detrimental to other children; (*c*) who require supervision or guardianship under the Mental Deficiency Act, or (*d*) who after leaving a Special School need institutional treatment or guardianship.

Under the Elementary Education (Defective and Epileptic) Children Act, 1914, every Local Education Authority is compelled to notify all mentally defective children; and to provide for the education of those who are capable of profiting by instruction, the number of whom (excluding idiots, imbeciles, and the lowest grade of the feeble-minded) is estimated at over 30,000.

As a security against "blind-alley" employment, and its consequent dangers, a well-organized movement is now in progress throughout the country by the establishment of Juvenile Employment bureaux and Labour Exchanges, and by the setting-up of Advisory Committees in connection with Education Authorities to secure advice, and guidance, and control during the perilous age of adolescence. The Education Act, 1918, made provision for raising the compulsory age for 'full-time' attendance at a Public Elementary School from 12 to 14, and also for compulsory attendance at continuation schools between the ages of 14 and 18. The Act also contains drastic provisions restricting child labour during such hours as interfere with efficient instruction. The determination that the youth of this country should not only be saved from a criminal career, but should have opportunities, suited to the age, for the development of character, is found in the widely spread organizations of Boy Scouts, Boys' Brigades, and other kindred associations.

It is in this movement of voluntary personal service, on the part of the earnest men and women, engaged in all these works and acting in the highest sense of patriotism and public duty, that the hope of the solution of the criminal problem lies in the future; and it is for this reason that I have adverted shortly to a movement that is proceeding in this country at the present time for the better nurture and education, and control of all that

enormous number of boys and girls who, though they must profit to a certain extent under a system of free compulsory education, will not be transformed by education alone into useful and honest citizenship. Side by side with the machinery of the public elementary school system, there must be agencies at work of which the high purpose is not only to secure that the defective child shall be treated in accordance with scientific method, and that the pauper child shall not have less favourable opportunity than his fellows, but that all classes of children after satisfying the standard of literacy ordained by the school authority, shall, during the period of adolescence, be subject to such influences as shall secure them, when they attain maturity, a fair chance in the competition of life. Therein lies the prophylactic of crime. No Prison Authority can be indifferent to the great social effort now being made, the effect of which is perhaps already visible in the diminishing number of young persons convicted of crime. In future years, it is hoped that it will not be a common-place, as it is now, for many old offenders to attribute their downfall, and their persistence in a criminal career, to neglect during infancy and early youth, and to the absence of any controlling influence to save them during the initial years preceding maturity from acts of mischief, or of fraud, until Prison, as the automatic and unvarying penalty, destroyed in them the germs of hope and confidence, and self-respect, without which a foothold in honest life could with difficulty be regained.

(2) THE PROBATION ACT, 1907:—

FORMER International Prison Congresses pronounced in favour of the provisional sentence (*"sentence provisoire"*). By this is meant in foreign codes what is generally known as a "conditional conviction," *i.e.*, a conviction takes place, but is not carried into effect, conditionally on the good conduct of the offender during a term of years (generally five) prescribed by the law. This respite is known technically as *"sursis à l'exécution de la peine."* The principle of conditional conviction is common to most penal codes, but operates in different ways, *e.g.*, it may take the form simply of judicial reprimand, or of being

bound over to be of good behaviour, or of probation, as in England and America, or of respite in the execution of the sentence, as in France, Belgium, and Switzerland. The Continental law of "*sursis*" or "*respite*" differs from the English law of Probation in that in the former case there is always a conviction. In England, except in serious cases tried on indictment, there is no conviction. The English law gives power if the court, "having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, thinks fit so to act, to discharge the offender conditionally on his entering into a recognisance, with or without sureties, to be of good behaviour and to appear for conviction" (if before a court of summary jurisdiction) "and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order." Such a recognisance may contain the condition that the offender shall be under the supervision of a probation officer. The court may add further conditions with respect to residence, abstention from intoxicating liquor, and any other matter which, having regard to the particular circumstances of the case, it may consider necessary for the prevention of the same offence, or the commission of other offences.

It is the duty of the probation officer, subject to the directions of the court—

- "(a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order, or subject thereto as the probation officer may think fit ;
- "(b) to see that he observes the conditions of his recognisance ;
- "(c) to report to the court as to his behaviour ;
- "(d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment."

Should the probationer commit fresh offences, or evade the supervision of the probation officer, or otherwise break any of the conditions of his recognisance, he is to

be brought again before the court and sentenced for his original offence.

The Probation Act, therefore, provides a method by which a person who has offended against the law, instead of being punished by imprisonment or fine, or, in the case of a child, being sent for a prolonged period to a reformatory or an industrial school, may be brought under the direct personal influence of a man or woman chosen for excellence of character and for strength of personal influence; and, lending authority to that supervision, and securing that it shall not be treated as a thing of little account, the Act keeps suspended over the offender the penalties of the law, to be inflicted or to be withdrawn according as his conduct during the specified period is bad or good.

The new procedure, under the Act of 1907, marks a great advance. The formality of the Probation Order, regular visits and reports, and the knowledge that the supervision is that of a duly appointed officer of the Court,—all these things combine to secure a much stronger hold over the offender than the simple recognizance, which was previously the rule. Again, the Act provides for the appointment of officers at a number of Courts which had not previously been provided with the means of securing supervision in cases where the Courts desired not to resort to the penalty of imprisonment. The appointment of at least one paid Probation Officer at every Court may now be regarded as indispensable for the proper administration of justice. Their appointment, however, is not compulsory, and it is only in the Metropolis that they are appointed by the Secretary of State. It is within the discretion of other Courts whether or not they shall avail themselves of the services of a Probation Officer. In fact, many Courts of Summary Jurisdiction throughout the Country are still unprovided for.

The extent to which Probation Orders are applied varies to a great extent in different parts of the country. In the Metropolis, not more than one in seventy-eight out of the total number of persons proceeded against summarily was so dealt with in 1913. At Liverpool and

Manchester, it is less than this, while in Hull and Birmingham, it is greater. Though many years have elapsed since the passing of the Act, there is still a comparative inactivity on the part of many of the Courts to give effect to its provisions, and many do not yet appear to have fully realized that the Act may be applied to all classes of offenders, and not only to first offenders, as was formerly the case. Moreover, the fact that the Probation System has been actively advocated by those specially interested in the treatment of Juvenile Offenders has led to a general opinion that the measure is to be used only in the case of the young. But in fact there are a great number of cases in which the offender is neither a first offender nor a child, but in which a Probation Order could very properly be made. Time will, no doubt, remove this misunderstanding, and when the Courts realize what assistance can be rendered to the administration of justice by judicious use of the Probation System, it is nearly certain that Probation Officers—male and female—for the younger as for the older prisoners, will become an established part of the machinery of every Court. The Probation Act, 1907, repealed Section 16 of the Summary Jurisdiction Act, 1879, and the Probation of First Offenders Act, 1887. The Summary Jurisdiction Act, 1879, provided by Sec. 16 (1) that where the charge, though proved, was of a trifling nature, the Court, *without proceeding to conviction*, might dismiss it, and *might* order the defendant to pay damage not exceeding 40/- and costs; by Sec. 16 (2) that *on conviction* the Court might order the defendant to give security with or without sureties, and with or without payment of damage or costs.

The Act of 1887 provided that the Court, before whom a person, not previously convicted, was brought, and who was convicted of larceny or false pretences, might, having regard to the youth, character and antecedents &c. of the offender, or to the trivial nature of the offence, direct that he be released on entering into recognizances, &c. to come up for judgment when called upon, and to be of good behaviour. If he failed to observe any of the conditions of his recognizance he was liable to be brought up to answer as to his conduct, and

to receive judgment.

The Act of 1907, in lieu of the foregoing, provides that when any offender is charged before a Court of Summary Jurisdiction with an offence punishable by such Court, and the Court thinks the charge is proved, it may nevertheless dismiss the charge altogether, or may bind the offender over, with or without sureties, to appear for conviction and sentence when called on at any time during a specified period not exceeding three years, if it “is of opinion that, having regard to the character, “antecedents, age, health, or mental condition of the person “charged, or to the trivial nature of the offence, or to the “extenuating circumstances under which the offence was “committed, it is inexpedient to inflict any punishment or “any other than a nominal punishment, or that it is “expedient to release the offender on probation.”

If such an order is made, or if the charge is dismissed under the Act, the Court may further order the offender “to pay such damages for injury or compensation for loss (not exceeding in the case of a Court of Summary Jurisdiction ten pounds, or, if a higher limit is fixed by any enactment relating to the offence, that higher limit), and to pay such costs of the proceedings as the Court thinks reasonable.”

The powers granted under the latter Act were thus wider in their scope, and it was hoped that they would be used with greater frequency, and with better guarantee of good results by the appointment of Probation Officers, as prescribed by the Act. But at the present time, statistics do not show that the principle of Probation has been as widely extended in consequence of these provisions, as might have been expected. The numbers so dealt with in 1907 (the year before the Act came into operation) and those for the last recorded year (1918) are as follows :—

1907....	Probation of First Offenders Act, 1887.....	8,097
"	Summary Jurisdiction Act, 1879, Sec. 16 (1).....	45,195
"	" " " " " " Sec. 16 (2)....	8,205
	Total.....	61,497

(or 8.2 per cent of the total number proceeded against).

1918....Probation Act, 1907 :—

Tried on indictment (conviction recorded) :—

Recognizances, with Probation Order....443 }
 „ without „ „ 652 } 1,095

Tried summarily: Order made, without conviction for:—

(a) Dismissal 26,231 }
 (b) Recognizances. 11,284 } 48,761
 (c) Probation Order.....11,246 }

Total..... 49,856

(or 11·5 per cent of the total number proceeded against).

Owing to differences in the law and of procedure, it is difficult, if not impossible, to make comparison between England and Foreign Countries as to the extent to which Probation in the former, and “*sursis*” in the latter is being used as an alternative to imprisonment. So far as my researches have enabled me to go, I would venture the opinion that “*sursis*” is being used to a considerably larger extent in France, Belgium, and Italy than Probation is being used in England. There are, moreover, I believe, no statistics for comparing the results of the two systems. We know that in England the percentage of revocations is not more than about 6, the actual numbers having been as follows for the five years ended 1913:—

	Probation Orders made.	Number who appeared for sentence.
1909..	8,962	624
1910..	10,217	584
1911..	9,516	593
1912..	11,192	655
1913..	11,057	603

The effect of suspended sentence (“*sursis*”), without probationary oversight, was declared at the Washington Congress to be difficult, if not impossible, to ascertain, and the Congress went further in resolving that it was desirable for each State or County to provide a Central Authority to appoint some agency to exercise general supervision over Probation work. This is now the case

in the State of New York, where a State Probation Commission has been appointed, and where, since 1910, as the consequence of good organization, there has been a great extension of the operation of the system. My own opinion is that Probation, carefully organized, *i.e.*, with a staff of carefully selected Probation Officers, both Male and Female, is, as I have already stated, an indispensable part of the machinery of criminal justice, and, as such, ought to be under the direct control and supervision of the State, not with the idea of hindering or impeding voluntary effort by official interference, but by securing that each Court shall have its proper equipment for this purpose, and that, in every case where there is a transgression of the conditions of Probation, there shall be, without fail, an immediate report to the Court entailing an effective punishment of the offender who has refused to profit by the clemency extended to him under the Probation Act. I do not think, so long as the institution of this valuable machinery is permissive and left to the discretion of the Court, that a full effect will ever be given to the admirable principles of the Probation System, as a handmaid of justice, or that there will be a sufficient guarantee, that where a Court has used its powers in this respect, there shall be a prompt and effective vindication of the law in the event of any breach of conditions. In this way only, can an answer be made to any criticism by the many persons who have attempted, by their experience in individual cases, to suggest that Probation may be merely a mask for impunity. Unless Probation is so organized as to clear itself from this reproach, I am afraid that it will never take its place firmly and progressively as a necessary and indispensable weapon in the armoury of the criminal law.

The Home Secretary has recently appointed a Committee to inquire into the question of the organization of Probation; and it is likely that we are on the eve of an extensive development of the system.

CHAPTER X.

FEMALE OFFENDERS.

At the date of the London Congress of 1872 there were more than 1,200 females in convict prisons undergoing penal servitude: to-day there are less than 100. In the same year, there were 44,554 committals to local prisons, representing 382·3 per 100,000 of the female population of the country. For each of the ten years ended 1913, the committals steadily decreased from, roughly, 50,000 to 30,000, and since that date, to about 12,000, or 76 per cent., representing in 1920 only 32 per 100,000 of the population of the country, as compared with 198 in 1913. The Local Prison daily average population has fallen from 3,198 to 2,375 during the ten years ended 1913—14, and to 1,137 in 1919—20, or 61 per cent., and that of the convict population from 149 to 82, a decrease of 45 per cent.

The great diminution of the female population has resulted in the closing of a large number of establishments. At the time the Prisons were taken over by the Government there were about 100 female prisons; to-day there are only 26, and of these only six had a daily average exceeding 50 in 1919—20.

Women sentenced to penal servitude are, as already stated, kept in a section of the local prison at Liverpool. Except in the Metropolis, those sentenced to ordinary imprisonment are kept in wings of local prisons, entirely detached from the male side, and are under the supervision of a matron, assisted by a female staff, the Governor of the whole establishment being responsible for general order and discipline. In the Metropolis, a large prison—Holloway—is given up entirely to the custody of female convicted prisoners, and is also the House of Detention for the unconvicted. The Governor is a medical man.

At the largest Prisons the female population is under the supervision of a Lady Superintendent.

If we examine the causes that bring these women to prison annually, whether the population be high or low, it appears that nearly two-thirds are committed for Drunkenness or Prostitution. Each succeeding year presents a heavy and monotonous list of women who thieve, keep brothels, neglect, or illtreat their children and offend in various ways against the Vagrancy Laws or Police Regulations. For such offences, the figures of recidivism are appalling—about one in every five committed having incurred over 20 previous convictions—some as many as 100 or 200. The actual percentage of the total receptions annually who have been previously convicted is greater in the case of females than for males, the former ranging between 70 and 75 per cent., and the latter between 50 and 60 per cent. annually.

A striking illustration of the high rate of recidivism prevailing among the female population was afforded a few years ago, when an inquiry was instituted as to the numbers of women committed to Holloway Prison for Drunkenness, and their previous convictions for that offence. It showed that during the three years ended 1915, 10,888 committals for Drunkenness were recorded against 1,628 women, who, including the above convictions and those incurred *prior to 1913*, had on their combined records a total of 30,986 convictions. Of these 1,628 individual prisoners:—

- 1,092 were received in 1913, incurring in that year
2,768 convictions,
- 1,045 were received in 1914, incurring in that year
3,931 convictions,
- 813 were received in 1915, incurring in that year
4,189 convictions.

Amongst the 1,628 women was selected a group of 25, who, at the end of 1915, had each received ten or more convictions for this offence. All were stated to have been first offenders in 1913 and 1914. By the end of 1915, these 25 women had amassed a total of 353 convictions. This inquiry showed that in 1915 a falling population committed for Drunkenness was contributing more

convictions per annum than formerly, viz :— 5 per annum in 1915 as compared with 2.6 in 1913. The high rate of recidivism in the Local prison population limits the number of *individual* women in the community who are sent to prison annually to a comparatively small total. Statistics show that over 32 per cent. of the total committed on conviction in a given year are sent to prison more than once in that period. This rate applied to the total receptions for 1919—20 would show that the whole Female population of prisons for that year was limited to slightly over 8,000 individuals.

It does not appear that until recently any special effort had been made to deal with the problem of the female recidivist: in fact, the study of the English Penal System does not show that at any time the method of dealing with criminal women has engaged that close attention which might have been expected from the nature and difficulty and importance of the problem. The law strikes men and women indifferently with the same penalties of penal servitude and imprisonment. In the case of women it only provides that they shall be separated from the other sex: that they shall be in the charge of female officers, and that they shall be relieved from the harder forms of labour. Generally speaking, the methods of punishment are the same, subject to such modification and exceptions as difference of sex obviously demands. This is not the place to examine those abstruse, psychological, and social causes which render the rehabilitation in honest life of women who have fallen from their high estate of probity and virtue so difficult. Prison workers can, from painful and almost daily experience, endorse the despairing plaint—

“L'honneur est comme une île, escarpée et sans bords,
“On n'y peut plus rentrer, quand on est dehors.”

But the admitted difficulty of the task has not prevented the most strenuous efforts being made in this country during recent years to rescue the female prisoner by visitation in Prison and by after-care on discharge. In 1901 the Lady Visitors' Association was founded with the object of securing at each Prison a body of earnest and devoted ladies, with experience of rescue-work and a

keen sympathy with even the most degraded of their sex. This body worked for many years under the presidency of Adeline, Duchess of Bedford, until her much lamented death which recently occurred. These ladies working in all the female prisons, local and convict, under a regular and approved system, by their unflinching devotion to the quiet, if trying and inglorious, duty of cellular visitation, and in close co-operation with the authorities, lay and religious, have discharged a great and difficult public duty. They have undoubtedly contributed to that decrease in the number of female prisoners which recent statistics illustrate. Apart from this, they have furnished a notable example of high christian endeavour, and many prisoners owe their reclamation to the light from the torch of promise which these Visitors hold high in their work of encouragement and persuasion to turn from the paths of crime and evil-doing.

Lady Visitors are appointed by the Commissioners, subject to the concurrence of the Visiting Committee and of the Prison Authorities, with a view to the regular and systematic visitation of *all* Female prisoners, soon after reception, during sentence, and shortly before discharge.

In order that the assistance of Lady Visitors may be utilised to the fullest extent, Governors, Matrons, and Chaplains are instructed to inform all female prisoners, and to encourage them to avail themselves of the privilege within their reach.

It is the duty of the Chaplain at each Prison to endeavour to secure a sufficient number of Lady Visitors to attend to the needs of all female prisoners, and to take care, by a judicious distribution of duties, that all deserving cases receive consideration, and that no conflict or competition arises in the attention given to any individual case. As it is obvious that most practical good is likely to follow the ministrations of the Lady Visitors if their attention is concentrated mainly on the welfare of the prisoners on discharge; and if any influence that may be acquired over the prisoners while in prison is to be continued after release, it is desirable, in this connection, that use should be made of the services of any ladies who may be attached to the Discharged Prisoners' Aid Society. In order to secure

the better direction of the services of Lady Visitors, and to avoid any clashing of duties, it has been found advisable that their work should be under the guidance of the Chaplain or Prison Minister.

Arrangements may be made for a Lady Visitor to deliver, or arrange for, addresses or lectures, to selected classes of prisoners, on any moral or useful subject.

A book is kept for the use of Lady Visitors, in which they may make any record they think desirable as to the action taken by them in regard to any prisoner, and in which they may enter any suggestion they may have to offer with regard to the industries on which prisoners could be employed, having regard to the needs of the locality and their welfare on discharge.

But it is to concentration of effort on the younger cases that the most fruitful and lasting results must be due. The application of the Borstal System to the young female, is being strenuously pursued at the Aylesbury Institution and is full of promise for the future. Here again the Prison authority relies greatly on the influence and aid of voluntary lady workers both inside the Institution and on discharge. The Visiting Committee, over which a lady presides, in addition to duties, judicial and other, prescribed by statute, take a keen personal interest in the work of the Institution,—laundry and domestic work, cooking classes, gardening, drill, school,—and make themselves acquainted with the personal character and history of the inmates. These, on discharge, pass into the hands of a Ladies' Committee of the Borstal Association who have already made the preliminary arrangements necessary for suitable disposal. As a rule, a girl passes straight to work, be it domestic service, or factory, or workshop. A social worker in the district, who places her services at the disposal of the Association, and known as an "Associate," is placed in touch with the case, for help or advice at any time. If possible, also, arrangements are made that the girl may benefit by association with any guild, club, or adult school, under the influence of which a relapse into idle or criminal habits might be prevented.

The Annual Reports of the Borstal Association show that on an average about 59 per cent. of girls discharged annually from Aylesbury are reported as satisfactory at the end of the year; 30 per cent. as unsatisfactory, and about 11 per cent. as having been re-convicted.

On the question of permanency of results of Borstal treatment, the following figures will be of interest:—132 girls were discharged from Aylesbury between 1st January, 1910, and 31st March 1914. In 1915 their records showed that 75 (or 56.8 per cent.) had not since been reported as re-convicted, and were satisfactory when last heard of; 17 (or 12.9 per cent.) were unsatisfactory when last heard of, but had not been reported as re-convicted; 35 (or 26.5 per cent.) had been reported as re-convicted; 2 had died; and 3 were sent to asylums. That is to say, over 69 per cent. had not been reported as re-convicted.

These figures are full of hope for the future when it is considered with what material we are dealing. It is nearly, if not quite, certain that if, as was till lately the case, these girls had on the occasion of each repeated offence, been made subject to a mere repetition of short sentences of imprisonment in the Local Prisons, they would, without exception, have drifted hopelessly and inevitably into the ranks of "professional" recidivism. To pick up and save even one from such a fate is a great and praiseworthy act, bringing as much honour to the worker who achieves it, as advantage to the community, which is at least freed from this one contaminating and hurtful influence: but to save even more than half, and as time goes on, it is hoped even more than that, is a work, not only of substantial material benefit to the State, and in that way patriotic in the best sense of the word, but a splendid example of human charity and effort, which is determined that these young erring creatures shall not glide down the easy current of shame and dishonour without at least an attempt to rescue and save.

As in the case of male offenders, there is also in operation at all Prisons, a "Modified" Borstal System for females, which may be applied up to the age of 25.

The later age than in the case of males is due to the great desire of the Commissioners to segregate, as far as practicable, all young females from the contamination which experience shows must arise from any association with the older females, versed in crime and ever ready to corrupt, by their precept and example, the younger ones, who are still hesitating which path to choose.

The instructions regulating this class provide that cases up to the age of 25 may be admitted if the Authorities at the Prison are of opinion that benefit would result therefrom, and that no prejudicial influence would be exerted on younger inmates in the class. Admission to the class up to the age of 21 is the rule rather than the exception, but in any case where it is shown that a girl has rejected former efforts made to reclaim her, or that she is known to be likely to exert a corrupting influence on others, or that her manner or disposition, or previous history, are such as to make it probable that she will do so, the Authorities are empowered to exclude her from the class. The rules provide that such cases as are excluded shall be kept apart, as far as possible, from adult recidivist prisoners, and may, if thought desirable, receive special treatment. Care is to be taken that no prisoner shall be allowed to think that she is considered to be past hope or cure.

It is not likely, of course, that the same results can be obtained by the application of the "Modified" System to short sentences in local prisons, but there is satisfactory proof that the "individualization" of each case as it comes to prison, the care and attention given, the encouragement of any showing the least symptom of a desire to reform, are bearing fruit.

The fall in the annual number of young women, 16—21, received into prison on conviction, which has taken place during the fifteen years prior to the War, viz:—from 2,310 to 858, or 63 per cent., may be largely attributable to this special work in Prisons. It is to be regretted that during the War there has been a tendency for this particular age category to increase, the number received last year having risen to 1,098. But it may confidently be expected that with a return to normal conditions, this

total will again decrease. Had not the terrible calamity of War impeded progress, steps would have been taken earlier to greatly improve and develop the State methods of dealing with young female offenders; but, as already stated, in view of the remarkable fall in the number of women sentenced to penal servitude, it has lately been found possible to transfer the female convicts from Aylesbury to a Wing of Liverpool prison, thus releasing the establishment entirely for use as an Institution under the Borstal Act. The powers conferred by this Act are largely extended by Section 10 of the Criminal Justice Administration Act, 1914. Whereas the former Act applies only to persons of criminal habits or tendencies convicted on indictment, this Section allows a sentence of detention in a Borstal Institution to be imposed in a case where an offender is summarily convicted of an offence for which a sentence of one month or upwards, without the option of a fine, can be imposed, but before an offender can be dealt with under this Section, it must *appear* that there is criminal habit or tendency, and it must be *proved* that there has been a previous conviction of an offence or a failure to observe a condition of recognizance on being discharged on probation. This same Act also raises the minimum period of detention in a Borstal Institution to two years, and increases the period during which a case may be kept under supervision after discharge.

Owing to this extension of powers under the Borstal Act a larger number of young women offenders are now falling within the meshes of the net, thus widely and wisely spread, the daily average having risen from 87 to 184.

In anticipation of such an increase, an extension of the scope of employment under skilled superintendence is being gradually introduced. Work in the open air, gardening, farm-work, tending poultry and stock, will be specially encouraged.

It is devoutly to be hoped that as the Borstal System for women develops, the march of the annual army of female recidivists through the prisons may be arrested. It can only be stopped by the concentration of a great effort,

legal, official, and moral, on the young female offender. The easy irresponsible method of awarding sentences of a few days or weeks for repeated offences of a trivial nature is no remedy for the evil. The Borstal System catches comparatively few of these cases. If the age were extended, say to 30, in the case of women, and the principle of Reformatory sentences were approved by Parliament in every case where criminal tendency was observable, and a State Reformatory for this purpose were established, as it has lately been established in some States of America, then there might be some hope of rescuing from crime a larger percentage of women than is likely, or even possible, under the present system. By the daily operation of the law, sending these cases repeatedly and hopelessly to Prison, and from the present limitation of age (21) for the admission of women offenders to special reformatory treatment (*i.e.*, under periods of detention long enough to give a chance of eradicating the evil tendency), no really great impression is going to be made on the girl or woman offender. The heavy roll of commitments to Prison and re-commitments will only cease when the State boldly recognizes the essential difference between the instincts and motives leading to criminal acts in the two sexes, and adapts its method of punishment and reformation accordingly.

The desirability of employing women for the superintendence and control of female prisoners is recognized. At the time when the Departmental Committee on Prisons, 1895, made their report, nearly 50,000 women were being committed annually to Prison, but that Committee did not consider that "the time of a Lady Inspector of Prisons would be sufficiently employed, but thought that a Lady Superintendent might be appointed who could not only do the ordinary work of inspection, but who could also be responsible for the general supervision of female prison industry, and for such other duty as the Secretary of State might consider it desirable to assign her." Since that date the annual committals have fallen by 78 per cent., the total commitments for last year being only 12,000; but the Commissioners have, for a considerable time, been assisted by a Lady Inspector of Prisons, and

at each female prison there is a voluntary body of Lady Visitors, whose duties are referred to above; the welfare of young girls at the Aylesbury Institution, both during detention and on release, is the subject of anxious care and supervision by Lady Members of the Visiting Committee. Lately a new rank of Lady Superintendent has been created among the discipline staff of the largest female prisons. The presence of Ladies on the Visiting Committees of Prisons is in every way desirable, and it is hoped that, in the near future, the qualification of Justice of the Peace having been extended to the female sex, all Prisons for females may be subject to the visitation and jurisdiction of Lady Justices. It is recognized also that the medical care of females in penal institutions should be entrusted to Lady Doctors. We have been fortunate in securing very able and highly skilled women both at Holloway and Aylesbury, and their appointment has been an undoubted success.

CHAPTER XI.

EDUCATIVE, MORAL, AND RELIGIOUS INFLUENCES
IN PRISON.

In a former Chapter I have referred generally to the efforts made in English Prisons to apply such methods as are practicable, having regard to the average shortness of sentences, and to the fugitive character of the population, for the uplifting of prisoners educationally, morally, and spiritually.

It is a commonplace, dating from the middle of the eighteenth century, that we must educate our prisoners, as it was also the common injunction that we must inspire them with the teachings of religion, and the habit of industry.

At a time when education was the privilege of the few, and no national system was in existence, and when the average length of sentence gave opportunity for methodical and continuous teaching, it was reasonable that advantage should be taken of a long period of enforced custody to establish a system, where, at least, the many illiterates coming to prison could be taught the simple lessons of reading, writing, and arithmetic.

Records, however, do not show that before all prisons passed under the control of the Government a very serious effort had been made to grapple even with illiteracy, to say nothing of schooling in the more advanced subjects. When the Local Prisons were taken over by the Government in 1878, there were only 50 schoolmasters in 113 prisons. 'Hard Labour' was the dominant note in prison administration, regardless of the obvious fact that simple manual labour unaided by the

increased aptitude that follows upon even a moderate cultivation of the mind, will not rehabilitate a man or enable him to rise to a higher level of existence. Half-an-hour a week, or even a quarter of an hour, was all that could be set aside from the demands of labour for such a purpose as teaching a prisoner to read or write, or perform those simple calculations in money, by which he could regulate the spending power of his wages, or estimate his domestic budget.

No great advance was made even after the Government assumed control, though the subject of education in prison was, on more than one occasion, the subject of special inquiry.

Even at that time, the question was considered whether the passing of the Compulsory Education Act in 1870 had not relieved the Prison Authority of the duty of adult teaching in its elementary sense, and whether it might not be assumed that all persons coming in later life to prison had acquired a sufficient learning in elementary subjects in the National schools. But statistics showed that in 1880 the number of illiterates coming to prison was practically the same as before the passing of the Act—about 33 per cent., while the number of those who could only read and write imperfectly was no less than 62 per cent. It was obvious that some years must elapse before elementary teaching in Prisons could be dispensed with. If we examine statistics since 1880, it is true that we find a large decrease in the number of illiterates coming to prison. In 1890 there were 37,000 committed who could neither read nor write: in 1900, 28,000, and in 1913 (the last recorded year) the number had fallen to 18,000,—representing for each year 25, 19, and 13 per cent. of the total committals, respectively. The bulk of the prisoners fall within the category of those who “can read and write imperfectly, or with moderate proficiency,” and concurrently with the decrease in the proportion of illiterates received, these have risen from 72 per cent. in 1890, and 75 per cent. in 1900, to 82 per cent. in 1913. But the remarkable feature of these statistics is that, after 50 years of compulsory education, over 18,000 should be committed annually who are unable to read or write.

These disappointing figures may be explained in various ways. Either a large number of those forming the criminal class, by reason of vagrancy and absence of settled home and life, slip through the meshes of the educational net: or, in the years between the school-leaving age and the apprenticeship of crime, they forget all they have learnt: or the rudiments of learning are not impressed with sufficient force and concentration in the tender years, when impressions are most likely to remain. Educational experts may argue as to this, but the fact remains that, judged by prison statistics, our costly and elaborate system of public education is not at least producing the results which were anticipated by those who dared to think fifty years ago that elementary teaching would be no longer required in Prisons; and so the Prison authority still remains in a sense an educational authority; but the rôle it plays is not ambitious, and does not aim higher than to teach the illiterate to read and write, and in the small space and opportunity given, to raise to a higher standard those who are just a little better than illiterates.

For many years all prisoners under the age of 40, and with sentences of three months and over were taught in prison. Experience has, however, shown that better results can be obtained by concentrating attention on the young, and on them even if the sentence is quite short—more than a month. The rule is now to confine education to those under 25 years of age; with power to admit older prisoners to the privilege, where the circumstances of the case would promise any practical result.

At the present time, it is estimated that about 5,000 prisoners under 25 in a year, who on reception are below Grade III. of the National Code pass through the schools, and, as a result of such education as will be given, about 33 per cent. succeed in passing out of this Grade in a year, while 74 per cent. pass one or more grades during the year.

Our teaching staff is recruited from our own discipline staff. Capable and intelligent warders are given the opportunity, subject to satisfying the Civil Service Commissioners that they possess the necessary literary require-

ments, of entering the Schoolmaster class. Having passed such literary test, they are appointed for six months, when their ability to teach is tested by the Chaplain of the Prison, and then, subject to confirmation by the Chaplain-Inspector of Prisons, they pass into the permanent Schoolmaster grade.

It is not an ambitious scheme, nor is it pretended that our Schoolmasters can compete in learning and ability to teach with the trained teacher of our public schools; but, given the nature of the task they have to perform with a fugitive class, many of whom are not desirous to learn, or to re-learn what they have once been taught, it may be stated that they adequately fulfil the purpose for which they are appointed.

Although the classes are now limited to the younger prisoners, there is, of course, an infinite diversity in the standard of education, ranging from the illiterate to the half-educated, and those who having, perhaps, been taught, have forgotten what they once knew. Formerly, education was given to each individual prisoner in cells; but now it is given in class. The best plan would probably be to revert to cellular teaching in the case of those who, from the absence of a common standard of education, cannot usefully be taught in class. Here, again, 'individualization' is asked for. In the case of the younger prisoners, now collected in depôts under the "Modified" Borstal System, we have lately made arrangements with the local education Authority to lend us a trained teacher, who comes in the evening after hours of labour, and conducts what is of the nature of a "Continuation Class," the teaching being adapted to the requirements of each. This plan has worked very successfully and might, with advantage, be extended. The whole question is now under consideration.

But elementary teaching in prisons forms only a small part of the moral influences which we seek to bring to bear in Prisons. The Prison Libraries are stocked with suitable books both of technical instruction and of general literature, and prisoners are encouraged to make full use of them under the guidance of Chaplains and Schoolmasters. Note books and pencils are provided for

those who wish either to make a special study of some particular subject, or to maintain knowledge which they previously possessed; and if the necessary books are not in the library, permission can be obtained for them to be supplied by the prisoner or his friends. The privilege of selecting books from the library is associated with the Progressive Stage System, *i.e.*, depends on industry and conduct, but, generally-speaking, a well behaved prisoner would be allowed two books a week, in addition to those which form a permanent part of his cell equipment, viz:—devotional and school books, and books of moral and secular instruction. Under this latter head, a Chaplain is given a wide discretion to allow practically all kinds of books, except works of fiction, *i.e.*, histories, biography, and science, political, social, and physical. Generally speaking, fiction would be reserved as a privilege to be earned by good behaviour. Lectures calculated to elevate and instruct prisoners are given from time to time either by some member of the prison staff or by lecturers from outside. Such lectures are given weekly during the winter months to those under Borstal treatment and are frequently illustrated by lantern slides. The subjects cover a wide range. Sometimes there is a description of life in foreign or uncivilised countries, or an account of travel and adventures by land, sea, or air, by men who are speaking of their own personal experience; or a talk about the wonders of science. At other times, they are of a more practical character and deal with various trade processes, or domestic work, house-keeping, cooking, hygiene, and so on. There is seldom any great difficulty in finding persons who are experts in these and other subjects and who are very willing to place their services at the disposal of the Chaplains.

As a step beyond this, the experiment has been successful in large prisons of allowing men to meet together under the presidency of the Chaplain, or other official, for the purpose of a debate or discussion on a subject chosen by themselves. The proceedings are conducted on the lines of similar meetings in free life, and as long as due order is maintained, there is no objection to the expression of natural feelings. The object of these

efforts is not merely educational. Experience has shown that they have a psychological effect, which is even of greater importance and value. They provide healthy food for thought during many solitary hours, and so tend to prevent morbid introspection, brooding over wrongs or worrying about family affairs; they break the unavoidable monotony of institution life, and provide a mental stimulus which is of the utmost value. But more than this, the mere fact that a prisoner is trusted, if only for a short time, to control himself without the restraint of authority, is of immense value in building up that self-respect, without which restoration is impossible.

In addition to these lectures and classes which usually take place in the evenings after working hours, selected prisoners may be withdrawn from labour twice a week to attend Bible or other classes of instruction conducted by the Chaplain.

Recognising that the sanctions of religion are the true basis of all reformatory work, every effort is made to render the daily Services in Chapel as bright and instructive as possible. For this purpose, frequent advantage is taken of the help of outside preachers, not necessarily clergy, in the delivery of religious and moral addresses; also choirs, singers and instrumentalists are invited to take part in the Services. The Church Army is specially helpful in this way, and also in sending their trained Evangelists at the invitation of the Chaplains to conduct special Missions to prisoners.

Every week a short resumé of the week's news is given by the Governor or Chaplain, and this practice has been found to react favourably on the temper and attitude of prisoners towards authority, as showing that it is not desired to exclude them, though prisoners, from news of the outside world.

The annual reports of our Chaplains in nearly every prison, furnish accounts of strenuous efforts, apart from their usual ministrations, for the moral uplifting of their charges. The following is a summary of such efforts recorded during twelve months at a large Metropolitan Prison for males—an eight-day mission: 15 selected preachers occupied the chapel pulpit: 7 attendances by

Choral Societies, bands, &c. : 28 special lecturers attended to give secular addresses to lads : a weekly Bible Class or moral lecture to lads by the Chaplain : the organization of a weekly debate among selected prisoners : the floral decoration of the Chapel, &c. Besides all this, there is the personal interest in the prisoner after his release, and many Chaplains and others speak of a correspondence maintained which furnishes abundant testimony that the labour of love during a prisoner's stay in prison has not been in vain. Year by year this great volume of work goes on in our Prisons : it is quietly and unostentatiously performed, and is probably little known and insufficiently appreciated by the general public ; and for this reason a somewhat detailed account may not be out of place in an Account of the Prison System of this country.

CHAPTER XII.

LABOUR IN ENGLISH PRISONS.

A great change has taken place in the system of labour both in Convict and Local Prisons during the last twenty-five years. In Convict Prisons this change is due, not, as in Local Prisons, to a different policy or to changes in the law, but to the fact that not only has there been a great reduction in the number of persons sentenced to Penal Servitude, but the opportunity for employment on what was known generally as "Public Works," *e. g.*, the excavations at Chatham, the breakwater at Portland, the Dockyard extension at Portsmouth, the Forts at Borstal, has largely disappeared. Such Works in the early days of the English Convict system greatly facilitated the purpose of the Administration by affording means for carrying into effect the object of a sentence of Penal Servitude, which was to create a deterrent effect on the prisoner himself by the execution of a hard day's work, to develop his intelligence by his employment on interesting and productive labour and to give facilities for acquiring a knowledge of all those trades which the construction of such Works involved. Moreover, having regard to the valuable character of the Works referred to, it was possible in those days largely to recoup the cost of maintaining the Prisons. Thus the value of the labour of convicts at Portland, Portsmouth, Chatham and Borstal during the year 1880-1 amounted to £124,000, exclusive of the value of what is known as the domestic service of Prisons, such as baking, cooking, washing, &c., while the cost of maintaining those Prisons in the same year was £147,000. It has never at any time been regarded as an axiom in this country, however, that all prison labour should be remunerative or that the primary object of a Prison was to make it self-supporting, and for this reason, in those Prisons controlled by the Government, (that is

Convict Prisons only prior to the Prison Act of 1877), the principle of competition with free labour was not admitted on such a scale that reasonable ground of complaint could arise as to undue interference with the outside market. The "Contract" system by which goods are manufactured for outside firms with the use of machinery, or under the supervision of the agents of those firms, is unknown in English State Prisons; and from early days to the present time, there has been no change of policy in this respect. The largest prison in the country, Wormwood Scrubs, was built entirely by convict labour, between 1874 and 1890. It has cellular accommodation for 1418 prisoners. Most of the bricks were made by prison labour on an adjacent site leased for the purpose. The massive blocks of stone used for the chapel, gate, and other buildings were quarried by convicts at Portland and Dartmoor: iron castings were prepared at Chatham and Portland. The average cost per cell was £70. 7. 0, as compared with a mean rate of £164 per cell paid to contractors elsewhere. Although no Public Works of importance have been undertaken for many years, the constant reconstruction of, and other works in connection with, the Convict Prisons of Aylesbury, Portland, Dartmoor, and Parkhurst have continued to engage a large percentage of the labour at the disposal of the Authorities. Thus of the value of the labour performed in Convict Prisons during 1912-13—a total of £63,000—more than half was in connection with building and quarrying work, the rest being divided between manufactures, farm and domestic service in the proportion of £16,000, £5,000, and £9,000 respectively. Apart from the fall in the numbers of the convict population, which now represents not more than a daily average of 1,500 persons, (whereas in the period of Public Works, strictly so called, to which I have referred, it was about 10,000) there has been a remarkable change in the physique and personnel of persons sentenced to penal servitude. From a medical census of the inmates of Convict Prisons taken in 1881, no less than three-fourths of the convicts were fit for hard labour of any kind, while only about one-thirtieth, or rather more than three per cent., were deemed

unfit for any labour. An intermediate group of about twenty-one per cent. were returned as fit for the lighter forms of labour. A medical census of Convict Prisons taken in 1898 shows that only fifty-six per cent. were fit for hard labour, while seven per cent. were unfit for any labour and thirty-seven per cent. fit only for light labour. The days are, therefore, past when Public Works can be undertaken by large bodies of convicts either at the place of detention itself or by transfer to other localities for this special purpose. The last Public Work of this nature contemplated by the Government was the building of the new harbour at Dover; but though the plan advanced so far that a special prison was actually built at Dover for the location of the necessary number of convicts, the idea was not proceeded with chiefly on account of the great delay and slowness of building operations which is inseparable from the employment of convict labour. The result is that with the exception of quarrying stone, which is still a distinctive feature of the convict labour at Portland and Dartmoor, and reclaiming land for farming purposes (Dartmoor and Parkhurst), the character of the labour in Convict Prisons is more and more approximating to that in Local Prisons. Thus, if we compare the work carried on at the Local Prison of Wormwood Scrubs and at Parkhurst at the present time, we should find that much of the work was practically the same for those undergoing the longer sentences, *e.g.*, a considerable number at each Prison would be employed as tailors, smiths and fitters, shoemakers, bricklayers, labourers and carpenters. In Convict Prisons, however, there was till recently no cellular labour, and the hours of labour and the whole system of Administration were adapted to the principle of outdoor associated labour. Now that the quarries employ a continuously diminishing number, the system of labour in both Convict and Local Prisons will be more and more assimilated.

Labour in Local Prisons has quite a different history. These Prisons did not come under Government control till 1878. The want of uniformity in their management, leading to an inequality of punishment in different parts of the country, was one of the principal arguments

used for the centralization of all Prisons in the hands of the State; and it was specially marked in the matter of Prison labour. The Parliamentary inquiry of 1863, which led to the passing of the Prison Act 1865, while Local Prisons were still under the control of the Local Authorities, laid great stress on this point. In some Prisons, there was complete idleness: in some, unregulated association: in some an active industry conducted with a view to commercial profit: and, in some, a close and melancholy adherence to the rule of separate confinement and its concomitant hard labour. Although, as before stated, the phrase "hard labour" was adopted in Acts of Parliament since the middle of the 18th century, its meaning has never been accurately defined, and there was consequently a great variety in its application. The Prison Act of 1865 attempted to define it, and enacted that hard labour was to be of two classes. First Class,—mainly treadmill, shot drill, crank, capstan, stonebreaking, to which every male prisoner of the age of sixteen and upwards, sentenced to hard labour, was required to be kept for at least three months and might be kept for the whole of his sentence. Any other approved kind of labour was called Second Class. This meant practically all forms of prison employment exclusive of the special forms of penal labour prescribed for the First Class. When the prisons were taken over by the Government under the Act of 1877 it was found that at some Prisons, *e.g.* Winchester, practically the whole of the population were employed in pumping, grinding and oakum picking. At Oxford, the treadmill, shot drill and capstan were the order of the day. At Devizes, sixty-two out of seventy-eight prisoners were engaged on the treadmill or on oakum picking. At other Prisons the question of providing remunerative employment received the keenest attention. One Prison competed with another in finding a market for its produce. Governors and Officers were encouraged to take an active interest in trade by bonuses or other payments and the amount of trade profit was taken largely into account by the Magistrates in dealing with applications for increase of pay. At Wakefield an extensive mat trade was carried on in which the sale averaged

£40,000 a year. Steam-power was employed. A commercial traveller was appointed to sell the goods, and the whole of the industrial department of the prison was under the control of a trade manager, who was provided with a staff of clerks and trade instructors. The salaries of all those officers were paid out of the trade profits. The trade manager had authority to award a gratuity not exceeding half-a-crown to any prisoner on his discharge who had shown special assiduity in the performance of his work, and the Governor could supplement this to the extent of 17s. 6d., making it one pound in all. It was in the power of the trade manager also to recommend the grant of additional bread as a reward for marked industry. Diligent long-term prisoners on their discharge were frequently provided for in the way of clothes, and had their railway fares paid to their destination. Cases have even been known of mutton chops being allowed at Christmas time to exceptionally industrious men. Preston Prison was another busy prison. It carried on a large trade, employed a commercial traveller, and the Governor was allowed a trade agent at a salary of £60 per annum. A taskmaster and assistant taskmaster also formed part of his staff. The regulations provided that "with a view to encourage habits of industry "as well as to reward the honest efforts of prisoners, and "to enable such as desired to reform to have the means "of living after discharge until they can procure employment," the Governor should be empowered to grant a sum of two shillings to every prisoner who had performed his fixed task diligently and well during the whole period of his sentence (being not less than three months) and a further sum not exceeding two pounds for all work done in addition to such fixed task. The allowances were:— for an extra square yard of matting, 1d.; for an extra ton of stone breaking, 2d.; for every extra coat made, 2s.; for every extra pair of boots, 9d.; and so on. The same system prevailed at Bodmin, Bedford, Chester, Mold, Chelmsford, Maidstone, Coldbath Fields, Holloway, Lewes, and Warwick. Manchester had an agent paid by commission for the purchase of stores, and the sale of manufactured articles. The Governor of

Hereford received ten per cent. on the net profits arising from the sale of the manufactured goods, and the assistant turnkey had an extra allowance of three shillings a week for acting as trade instructor. Then Kirkdale, Strangeways, Leeds, Lewes, and many other prisons were furnished, in addition to the ordinary disciplinary staff, with trade officers, whose duty it was to instruct the prisoners in the various industries carried on.

All this was altered when the Government assumed the complete control of all Local prisons in England and Wales on the 1st of April 1878.

In connection with the strict and uniform system of discipline which was introduced into every department of the Service, the granting of allowances to officers and the payment of rewards to prisoners were abolished, and in lieu of these rewards, the gratuity system, which is explained in another chapter, was introduced. The actual industries on which prisoners were employed remained much the same, except that, later on, matmaking, which had been one of the principal Prison industries, employing a daily average of nearly 3,000 workers, had to be almost abandoned in consequence of an agitation which had commenced in 1872 on the part of outside workmen, who complained that the competition of Prison labour was seriously affecting their trade. About this date, the oakum trade, on which the prisons throughout the country had been able to rely for employment for many generations, collapsed owing to the substitution of iron and steel for wood in the building of ships. This industry employed between 3,000 and 4,000 prisoners, mostly those under sentences then considered too short to admit of the teaching of any trade. At the same time, the Act of 1877 reduced the period of hard or penal labour to one month in the case of those sentenced to hard labour. A larger body of prisoners thus became eligible for the ordinary industrial employment of the Prison, but these employments were still carried on in separation, and it was not till twenty years later that the principle of associated labour in local prisons was recognized and adopted. The public inquiry of 1894 into Prison Administration was a practical condemnation of the

separate or cellular system except for short periods. It swept aside the old-fashioned idea that separate confinement was desirable on the ground that it enables the prisoner to meditate on his misdeeds. It held that association for industrial labour under proper conditions could be productive of no harm, and this view was supported by the fact that association for work on a large scale had always been the practice at the Convict Prisons without being productive of dangerous outbreaks by prisoners who as a class were less easy to control than those in Local Prisons. At the same time the vexed question of competition with free labour was examined, and representatives of trade unions who appeared before the Committee, while admitting that industrial labour was morally and physically beneficial to prisoners, only urged that direct competition with outside labour should not be allowed at cutting prices. They only asked that goods should not be sold below the market price for the district or the standard price elsewhere, and that every consideration should be shown to the special circumstances of particular industries outside so as to avoid all undue interference with the wages and employment of free labour. The inquiry of 1894 marks a new starting point in the history of Prison labour in Local Prisons, and steps were at once taken to give effect to the leading recommendations of the Committee, which were broadly in favour of the abolition of all forms of unproductive labour, cranks, treadmills &c., and of a system of associated in lieu of cellular, labour. The problems involved were costly and difficult and only slow progress could be made. The provision of workshops alone in Prisons built for the most part on the cellular plan and for strictly cellular purposes was a considerable undertaking. The abolition of cranks, treadmills, &c., involved the necessity of finding work which should be of an onerous and disagreeable character for prisoners during the first month. The collapse of the matmaking and oakum trades increased this difficulty. The form in which the labour statistics had hitherto been rendered was thoroughly revised and the out-of-date labour price list, which had previously been in use as the basis of valuation

in Convict Prisons, was abolished and a new list brought into operation on the 1st April, 1897, applicable to both Convict and Local Prisons. The old-fashioned "per diem" rates which had previously obtained in Local Prisons and which often had no relation whatever to the amount of work done, giving rise to fallacious valuations, were replaced with what are called "per article" rates, the actual quantity of work performed being now the basis of valuation. The institution of the new rates in connection with the new scale of the tasks required of prisoners now enables accurate calculation to be made as to the exact degree of industrial output and efficiency at each Prison. At the same time, a scheme was introduced for the payment of special allowances to officers engaged in instructing prisoners. The effect of these changes became at once apparent, and by the year 1900, there was an increase of no less than thirty per cent. in the average earnings per prisoner, as compared with what was earned four years previously when the revision of manufacturing methods was first taken in hand, and in that year the entire value of the labour in all branches, manufactures, farms, building and domestic service showed an increase of nearly £10,000. It was at this time that the demolition of treadmills had begun to place at our disposal for workshop purposes the buildings in which the treadmill had hitherto been worked, and steps were taken for the development of work of a higher grade such as bookbinding, printing, carpentry, tinsmithing, shoemaking, and tailoring, which it was thought it would be possible to obtain by the friendly co-operation of the Government Departments requiring such articles. Hitherto the Government work undertaken had been more or less of a simple and non-technical character and this must, of course, in the main be looked to for the employment of the local prison population, consisting largely of prisoners with short sentences, many being sent to Prison for periods of a month or under. Only two or three per cent. are for periods of more than six months. In spite of these drawbacks, the progress resulting from the new organization has been remarkable. There is a great improvement in the value of the manufacturing output

which in 1913-14, exceeded that of 1897 by no less than 88 per cent., and this has been achieved without entering into undue competition with private traders. The payment of trade allowances to carefully selected officers, though small in amount, has had a far reaching and stimulating effect. Not only do the officers take the keenest interest in their work, but the prisoners, now that they receive instruction in interesting trades, are year by year increasing their average earnings. It was estimated that the average earnings of a local prisoner in 1878, when the local prisons were taken over by the Government, was £5. 18. 0. In the year 1904, the average earnings per prisoner per annum reached £9. 18. 9. At this time the employment of local prisoners in associated labour was further extended: where shops were not available, they worked in the corridors, on the landings or at their cell doors for several hours daily: the numbers so employed, starting from comparatively low numbers in 1898, numbered more than 9,000 in 1911. The average number of prisoners for whom productive work is found represented in 1913—14 about eighty-six per cent. of the population, distributed as follows:—manufacturing department, 10,500: building, 1,700: prison service, 3,000: farm, 400.

By 1908, the average annual earnings per prisoner had increased to £13. 2. 0., and a gradual reduction had been made in the number engaged upon what are generally known as low-grade industries. A certain amount of unskilled and less remunerative labour is inevitable, owing to the short sentences of so many prisoners, and the physical inability of others. The work thus described consists of pea-sorting, bean-sorting, coir-balling, coir-picking, cotton-sorting, oakum-picking, rope-teasing, and wool-sorting. In 1908 about twenty-eight per cent. of the total number of prisoners under the Manufacturing Department were employed in this way. There was also a permanent non-effective strength, amounting to about sixteen per cent. This number represents prisoners under remand or awaiting trial, patients in prison hospitals, ill-conducted prisoners under punishment, and prisoners not told off for work pending medical examination,

registration, &c.

The strong efforts made to increase the productivity of prison labour during the period which had elapsed since the daily round of crank and treadwheel was superseded by a rational system of tasked industrial labour obtained a marked success in 1911, in which year there was a record output of labour valued at over a quarter of a million pounds. In this year, the average annual earnings per prisoner rose to £14. 9. 4. This average has since increased to £15.1.0. in the year 1919-20. At the same time, there has been a decrease both of non-effective strength, which has fallen to 15 per cent. of prison population, and of the number employed on low-grade industries, which decreased to four per cent. last year. In 1910, satisfactory results became manifest from the development of female labour, the re-organization of which had been proceeding steadily throughout the country. By permitting women to proceed to associated labour at the commencement of their sentences, it was found possible to do much of the domestic service by prisoners with comparatively short sentences, thus freeing those undergoing longer periods for skilled labour, *e.g.*, dress-making, needle-work, or other suitable occupation. Owing to the difficulty experienced during 1912—1913 in connection with the supply of materials for manufacturing purposes, consequent upon serious labour disputes throughout the world, there was a fall in that year in the aggregate earnings of prisoners, which still, however, continued high, thanks to the orders for skilled and unskilled work which are now placed at the disposal of the Authorities by the various Government Departments—the General Post Office, Admiralty, War Office, Office of Works, Stationery Office, &c. The sympathetic help of these Departments, on which we are now able to rely, furnishes a promising prospect for the present, and also for the development of other industries in the future.

On the outbreak of war, drastic steps were taken to secure a maximum output of war manufactures, *e.g.*, the association of male prisoners during the first month of sentence; extended hours of labour; and optional employment on Sundays. The appeal which was made to the

patriotism of the prisoners met with a splendid response, and, in spite of the large withdrawal of able-bodied men and women for national services, the average value of prison labour was nearly £9 per head greater than for the five years before the War. During the period of the War, over 20 million articles were supplied to various Government Departments.

The Great War has sadly impeded the development of the plan of industrial training in Borstal Institutions which was originally intended. Up-to-date modern workshops, plant and machinery have not yet been fully installed, owing both to lack of the necessary material, and to the shortage of labour caused by the enlistment of inmates after a comparatively short period of detention. Rapid steps are now being taken to make up for lost time: advantage has been taken of the opportunity offered by the sale of materials of all sorts by the Government Surplus Property Disposal Board to accumulate plant and machinery, and it is hoped that before long the opportunity will be given to intelligent lads to acquire a good elementary instruction in various technical trades, which will facilitate their disposal on discharge, and also instil, not only the habit, but the love of work – the absence of which is in most cases the beginning of the criminal career, born of idleness, and the example of bad early associations. In the meantime, good work of an instructional character has been forthcoming by the employment of lads in the various building operations, often necessary at Borstal and Feltham, and the trades of carpentry and smithing incidental thereto. There is also a considerable area for farming operations at both places, with the advantage of healthy outdoor life and hard manual labour. There is also a regular system of instruction in market-gardening; and the various forms of domestic service, cooking, baking, laundry, &c., and in the case of those more fitted for sedentary occupation, tailoring, bootmaking, &c.

CHAPTER XIII.

(1) VAGRANCY: (2) INEBRIETY

(1) Vagrancy:—

OUT of a curious medley of Tudor legislation has grown up the English idea of Vagrancy. It is a survival of a long series of penal enactments dating from the 14th century, which were directed against the desertion of labourers from their respective districts when serfdom was breaking down. Parliament interposed to prevent the rise of wages, resulting in the free exchange of labour, and, at the same time, to check the acts of disorder which followed in the train of Vagrancy and Mendicancy. Further penalties against Vagrancy followed from the Elizabethan law of Settlement. The wandering or vagrant man became, from the operation of these causes, a suspected or criminal person, and, in the course of time, vagrancy and crime became almost synonymous terms. It was not till the beginning of the last century that steps were taken to repeal and consolidate the numerous enactments—some fifty in number—relating to the law of Vagrancy, which four centuries had accumulated. The present law dates back as far as 1824, and bears the impress of the old Tudor legislation. It is repressive in character, and its object is to punish the offences such as wanderers are likely to commit. The offences dealt with by the Act are numerous, and can be divided roughly into three classes:—

- (1) offences committed by persons of a disreputable mode of life, such as begging, trading as a pedlar without a licence, telling fortunes, or sleeping in outhouses, unoccupied buildings, &c., without visible means of subsistence :

- (2) offences against the Poor Law, such as leaving a wife and family chargeable to the poor rate, returning to and becoming chargeable to a parish after being removed therefrom by an order of the justices, refusing or neglecting to perform the task of work in a workhouse, or damaging clothes or other property belonging to the guardians; and
- (3) offences committed by professional criminals, such as being found in possession of housebreaking implements or a gun or other offensive weapon with a felonious intent, or being found on any enclosed premises for an unlawful purpose, or frequenting public places for the purpose of felony.

The offences specially characteristic of the vagrant class are "begging" and "sleeping-out," and it is with vagrancy used in this sense that the Prison Authorities are chiefly concerned. Under the Act any person begging in any public place is an idle and disorderly person liable to imprisonment on conviction under the common law for one month or a fine not exceeding £5: a person wandering abroad without visible means of subsistence, or not giving a good account of himself is styled a "rogue and vagabond" and may be punished with imprisonment up to three months, or a fine not exceeding £25. There is a third category of Vagrant, known as the Incurable Rogue, *i.e.*, a person who has been more than once convicted of any offence under the Act. Such a person is convicted at a Court of Petty Sessions and committed till he next Court of Quarter Sessions to receive sentence, which may be to a year's further imprisonment or to corporal punishment.

There is another class known as Vagrant, which does not come within the jurisdiction of the Prison Authority, and who is known as the destitute wayfarer or casual pauper. This class presents a curious history of quasi-penal legislation. No special provision was made for his case when the whole question of the Poor Law was comprehensively dealt with by the celebrated Act of 1834. During the years following that Act, there was an alarming increase of non-criminal vagrancy, and the principle of relieving the casually destitute in "special"

wards of the Workhouse was established, and, with it, the principle of a prescribed task of labour in return for food and lodging. There was, however, no power to detain for more than four hours after breakfast on the morning after admission. It was not till 1871 that the period of detention was prolonged to the third day after admission, on proof that there had been more than two admissions during the month; it then became necessary to frame regulations for the detention of the casual vagrant on lines analogous to those under which the prisoner is detained:—labour, dietary, task, &c., and the casual ward became in many respects a sort of miniature Prison for very short sentences. These provisions, however, of which the purpose was to render detention in Casual Wards unattractive, especially to the habitual Vagrant, did not succeed in diminishing the number of the class of destitute wayfarer, who have for so long been a puzzle and a problem to the Poor Law reformer. The average numbers received into Casual Wards on a given day, for the five years ended 1876, had risen from 2,945 to 8,012 for a similar period ended 1913.

The Casual Wards, moreover, furnish a considerable contingent each year to the Prison population in the shape of persons who misbehave as paupers, *i.e.*, refuse to perform the allotted task, or destroy workhouse-clothes. There was at the beginning of the century a remarkable increase in the number of persons committed for offences against Workhouse regulations. For twenty years previously the numbers had oscillated between two thousand and four thousand: in 1901 they increased to over five thousand. The cry that the pauper prefers Prison to Workhouse was again raised with the object of showing that the conditions of Prison life were unduly attractive.

* This agitation, combined with the fact that the number of persons convicted of "Begging" and "Sleeping-Out" had risen, in the four years from 1900 to 1903, from 12,631 to 20,729 led to some uneasiness in the public mind, and a special Inquiry was ordered by the President of the Local Government Board as to the law applicable to persons of the Vagrant class, and as to the administration of that law. Previously to this, the Prison Commissioners had reported

to the Secretary of State—"that they are not prepared to admit that the increase of the vagrant class sent to prison is due to the fact that the conditions of prison life are unduly attractive. Casual paupers as soon as they become prisoners are subject to ordinary prison rules, not specially devised for dealing with this class, but to meet the *average human needs of thousands of prisoners of different classes, characters, professions, and physique*; and being, as a rule, under very short sentences, they receive the dietary and employment which practice and experience has designed as being, on the whole, the best and the most salutary for the early stages of a sentence of imprisonment. This dietary is not, like that of a casual ward, for one night or two nights, but part of a systematically graduated dietary table, intended to embrace both short and long sentences. The dietary and task are uniform throughout the country, varying only on medical certificate, all prisoners on reception being subject to a careful medical examination, and if they deviate from the normal standard of health and fitness, a full task of labour is not imposed; and the medical officer also has power to make additions to the dietary. In workhouses, however, our inquiries show that there is no uniform scale of diet or of task, and, so far as we are aware, these are not regulated by medical certificate as is done in prison. Hence, two results follow: Firstly, vagrants to whom the prison dietary and task and medical practice are well known, from a probable acquaintance with many prisons, openly profess a preference for the prison in those localities where the workhouse conditions are more severe; and, secondly, it may happen that on reception in prison the medical officer will not certify the prisoner as fit for the labour, the refusal to perform which, at a workhouse, has resulted in imprisonment."

"Again, the prison dietary is based on the opinion of experts, is framed on scientific principles, so as to represent a sufficiency, and not more than a sufficiency, of food for an average man doing an average day's work. The scale of tasks is based on the experience extending over many years of what can reasonably be expected from a man working his hardest during a given number

of hours per diem. They believe that both the dietary and the tasks strike a fair average, so as not to err on the side of severity or leniency. As before stated, they can be varied on medical advice. The large and almost preponderating rôle played by medical officers of prisons is a factor that should be taken into account by anyone who attempts to compare prison with workhouse life. Public opinion properly exacts the most scrupulous care in all matters affecting the treatment of prisoners, and medical officers are always liable to criticism from outside persons for having failed to diagnose this or that malady, to have ordered this or that dietary, or to have prescribed this or that task. They dwell on this matter at some length, because they feel it necessary to guard against the impression which might be formed from the fact that a small section of the criminal community openly prefer prison to the workhouse, that therefore prison life is unduly attractive, that its conditions are not sufficiently rigorous, and that the whole edifice should be reconstructed to meet the special case of a few ne'er-do-wells who have lost all sense of self-respect, and to whom it is a matter of indifference whether they spend a few nights in a workhouse, a prison, or a barn. The diminution of this class is not, in our opinion, likely to follow from any alteration of prison régime; it might be modified if, as we venture to suggest, a more uniform system were established in workhouses, and a greater discrimination shown in the treatment of each case; it can only be effected gradually by a general improvement of social conditions, pending which the prison can only play a very insignificant part as a remedy for this evil; for no one can seriously contend that vagrancy is going to be cured by a succession of short sentences in the various local prisons of the country. So generally is this felt to be the case that strong expressions of opinion from responsible persons have been expressed in favour of some specific remedies being provided by the State for dealing with the admitted evil of professional vagrancy. It has been suggested that labour colonies should be established on the Belgian model, where the professional vagrant who now tramps from prison to

prison could be detained for a long period of time. This system it is believed has worked well in some foreign countries. A necessary condition of its application would be some system of identification, so that a vagrant, after undergoing a sentence in one locality, should not, as now, be able with impunity to commit another offence in another locality, again become subject to a light penalty, and so on *ad infinitum*. If such vagrants could be indentified by finger prints or otherwise, and systematically dealt with on indictment and sentenced to a long term, something at least more effective than the present system might result. We do not see now any system can be effective without an elaborate method of identification."

The Report of the Committee of 1906 is an instructive and valuable document. The Casual Ward system was condemned both on the grounds of efficiency and of economy, and it was boldly proposed to substitute the Police for Poor Law Authorities as the body responsible for local relief and management of Casual Wards. The want of uniformity in the administration of over 600 independent authorities had impressed the Committee as the principal cause in the failure of the system, and it was believed that by giving control of the Wards to the Police, and by that way only, uniformity of treatment would be secured.

With regard to the punishment of Vagrancy also, the evidence showed that there was no uniformity whatever in the sentences given for Vagrancy offences. It was found that sentences given by stipendiary magistrates appeared to be as little governed by any fixed principles as those inflicted by unpaid justices. The great majority of the sentences are for fourteen days or under. The evidence showed conclusively that as a protection against vagrancy, short sentences were indefensible. They quoted the opinion of the Prison Commissioners that the "elaborate and expensive machinery of a prison, whose "object is to punish, and at the same time to improve, "by a continuous discipline and applied labour, cannot "fulfil its object in the case of this hopeless body of men "who are here to-day and gone to-morrow, and who, "from long habit and custom, are hardened against such

“deterrent influences as a short detention in prison may “afford.” They came generally to the opinion that while it is evident that short periods of imprisonment were useless, and long periods could not be given without injustice, and having regard to the fact that prison conditions could not be made deterrent to vagrant offenders, a complete change in the treatment of Vagrancy was called for. Their principal proposal was that the class of habitual Vagrants should be defined by Statute to include any person who had been convicted three or more times within a period of twelve months of certain offences, such as “Begging,” “Sleeping-Out,” or refusing task in Casual Wards, and that such a person should be treated, as far as possible, not as a criminal, but as a person requiring detention on account of his mode of life.

The Report on the Belgian Colony at Merxplas, which was issued by a Committee appointed by the Lindsey (Lines.) Quarter Sessions in 1903, had strengthened the growing conviction in this Country that new methods were necessary for dealing with habitual Vagrants, and a large number of local authorities and Courts of Quarter Sessions addressed memorials to the Secretary of State and the Local Government Board in favour of the establishment of Labour Colonies for Vagrancy. The members of the Committee visited such Colonies in Holland, Belgium, and Switzerland, and though they came to the opinion that these Colonies, whether voluntary or compulsory, exercised but little reformatory influence, in spite of this, however, there was such a consensus of opinion as to the evil resulting from unrestrained habitual Vagrancy that the establishment of compulsory Labour Colonies in England and Wales was recommended. They state in their report, “even if they are not “successful in achieving greater reformatory effects than “the existing labour colonies abroad, we think that at “least they may clear the streets of the habitual vagrant “and loafer, may make him lead a more useful life during “his detention, and may offer a real deterrent to those “starting on a life of vagrancy.” At the same time, they urged the great importance of a system of identification,

by which the habitual vagrant could be recognized and dealt with. The finger-print system would furnish an easy method, and would only entail that any person charged with a vagrancy offence should be remanded for a few days to enable information as to previous convictions to be obtained. Any inconvenience that might be caused in the first instance by the remand of any person charged with a vagrancy offence would be fully compensated for by the ultimate results. The fact that no action has been taken upon the elaborate inquiry of 1906 goes to show that the sequestration, under strict control, of the habitual vagrant is not generally accepted as a solution of the evil, and it is a remarkable thing that, while in most civilized countries the proper treatment of Vagrancy has been the subject of so much thought and discussion, as in Belgium and Switzerland and other countries, and of practical expedients for the protection of the community from this *plaie sociale*, yet in England, Vagrancy is still dealt with and punished under the old law of 1824, a law which has little relation to the facts, customs, and habits of the present day, which only requires that where a vagrant shows by his actions that he is either a nuisance or a danger, there shall be power at law to bring him before the Courts. Although the magistrate may give him three days', or three months' imprisonment, or Quarter Sessions order him to be flogged, it remains a matter of indifference; and so long as public opinion is in this state regarding the question, it is not likely that Parliament will intervene.

Conditions prevailing during the War have caused a striking illustration to be furnished showing how the general demand for labour which prevailed has had the effect of practically clearing the prisons of the Vagrant convicted of Begging and Sleeping-Out. The numbers proceeded against for these offences had risen steadily for nearly 20 years until 1910, and for a number of years prior to the War had averaged over 37,000 annually, furnishing in 1913 no less than 11 per cent. of the total receptions into prison, though from some Counties the the percentage was much greater, viz :—from Lincoln, 66 ; Cornwall, 58 ; and from many others over 30. Since that

date, this large body of Vagrants in prison has fallen by no less than 93 per cent., viz:— from 15,000 in 1913—14 to 1,066 in 1918—19.

For a few years before the War, however, a decrease had been noted. By some it was attributed to the growing opinion among Magistrates as to the futility of very short sentences: by others, to the fact that recent alterations in the Prison régime had rendered a few days' sojourn in Prison more irksome than formerly: others also considered that the gradual adoption by various police authorities of the Way-Ticket system, (the object of which is to enable the needy wayfarer to move quickly through the county towards his destination and to provide him on his route with lodging, supper and breakfast at the casual ward, and with a mid-day meal, thus removing all necessity for begging), was a cause of diminishing the offence of Begging in public places. Others were of opinion also, that the Insurance Act, by which a Magistrate has proof of whether a man is a *bonâ fide* worker or tramp, has led to a greater individualization in the case of Vagrants brought before the Courts, and correspondingly to the diminution in the number committed to Prison. But an examination of statistics, spread over a long period, shows that the rise or fall of Vagrancy offences and other minor charges, is chiefly determined by the prevailing rate of unemployment in the country. Thus, in the years of trade depression which culminated in 1909, and which showed a very high percentage of unemployment, the number proceeded against for Begging and Sleeping-Out also reached the highest recorded total, viz:— 45,408. Although this number is very great, there was, in addition, an enormous total of persons of vagrant habit, *i.e.*, with no settled place of abode, appearing in criminal statistics at this time charged with offences other than Begging and Sleeping-Out. An inquiry made about this time showed that of the male Local Prison population *on a given day* (14,632), no less than 4,411, or 30 per cent. (including 695 convicted of Begging and Sleeping-Out) had no settled abode, of whom 82 per cent. had been previously convicted, and 1,420, or 32 per cent., were classed as *habitual* vagrants. It is not surprising to find, therefore, that, with the rapid

fall in the percentage of unemployment, which set in in 1910, and has continued since, until during the War, when, owing to the abnormal conditions prevailing, there was abundant work for all, the number of persons actually charged with Vagrancy (Begging and Sleeping-Out) should have fallen in 1918 to only 2,651, and that, at the same time, a great decrease in crime should be recorded also. (Vide Chapter XVII).

So far as non-criminal vagrancy is concerned, active steps have lately been taken by the Local Government Board with a view of introducing greater uniformity in the administration of the Casual Wards, at least so far as the Metropolis is concerned. An order was issued in November 1911 vesting the control and management of the Casual Wards in the Metropolitan Asylums Board. The Board appointed a special Committee to give effect to the Order, and at once took steps to provide for the uniformity of all the Casual Wards committed to their charge, which had hitherto been administered by the separate local Boards of Guardians. The results have been very remarkable. Of the twenty-eight casual wards available on the 31st March, 1912, only six remained in use by the end of 1919, the average number of inmates accommodated on a given day at the end of the years named having fallen from 1,114 to 82 during the period. The comparative accommodation available is shown in the following table:—

	31 Mar., 1912.	31 Dec., 1913.	1 Jan., 1917.
Men	1,136	627	286
Women	402	177	92
Double Beds ..	110	57	28
Total..	1,648	861	406

The Metropolitan Asylums Board, in their report for 1912, had no hesitation in expressing the view that the

decline of casual pauperism in London is due to the unification of the Casual Ward Authorities in the treatment of London as a homogeneous whole under an absolutely centralized system. The Report confirms the conclusions arrived at by the Committee of 1904 with regard to classification and treatment. They report as follows:—“First there is the *bonâ fide* working man in search of work, and we have no reason to doubt the estimates which placed the proportion of this class at under 3 per cent. of the whole. Secondly, come those who undertake casual labour for a short time, but will not or cannot undertake continued work. This type soon degenerates into the habitual vagrant unless deterred, as we hope under present conditions he is being, from the continual frequenting of casual wards. The third class is the ‘work-shy’ or habitual vagrant who professes to look for work but has no desire to find it. Amongst this number are many who although strong and able-bodied, deliberately embark upon a career of idleness and of alternation between casual ward and prison at such an early age as twenty years. They are often qualified and able to work and have been assisted over and over again until they are given up as hopeless and their papers marked ‘prefers to walk the streets.’ Further reference is made to this class of habitual vagrants in the section discussing the question of punishments, where it is pointed out that neither casual ward nor prison exercises the slightest punitive or deterrent effect. It is certain that the community need have no compunction about applying to this class so-called severe measures of compulsory detention and work for indefinite periods, and it must be remembered that for vagrants, who will not have households of their own, who have but one object in all their wicked and perverse lives—to exist without work at the expense of their industrious neighbours—we are taxed to provide board and lodging. Lastly, there is the class of old and infirm persons who are unemployable, who cling to the little liberty left to them by going from casual ward to casual ward in preference to entering the workhouse infirmaries. Between the 1st May and the 31st December, 1912, thirty-

three men over fifty, including twelve over sixty, were admitted from forty to fifty-four times each in the casual wards, and nine women aged from fifty to seventy years were admitted over forty times each."

It remains to be seen whether this endorsement of the findings of the Committee by the Authorities of the Metropolitan Asylums Board, who have given such close and practical attention to the subject, will influence opinion toward the severe measures of compulsory detention which are recommended. Prior to the War the number of persons sentenced at Quarter Sessions as Incurable Rogues was increasing, the average number for the five years ended 1913 having been 618, as compared with 398 for the preceding five years. This increase may indicate greater attention on the part of the Courts towards repressing the evil. Although there is no system of identification for the purpose of the Vagrant Class at present in existence, there is evidence from a Prison in the Midlands that, of 700 prisoners of the Vagrant Class received during a period of 12 months some years ago, one-third had served from two to seven imprisonments during the year. The total convictions incurred by these 236 prisoners were as follows:—

From 2 to 4 previous convictions had been incurred by 95	
" 5 „ 10 „ „ „ „ „ „ 66	
" 11 „ 20 „ „ „ „ „ „ 58	
" 21 to 30 „ „ „ „ „ „ 6	
" 31 „ 50 „ „ „ „ „ „ 9	
67 „ „ „ „ „ „ 1	
87 „ „ „ „ „ „ 1	

It will be seen from the foregoing short account of the history of Vagrancy that England has not yet adopted any special plan for dealing with this problem on the lines with which we are familiar in other Countries. It is possible that the growth of professional Vagrancy, manifested in an increase of those offences which are now grouped generically under the law of Vagrancy, may induce either the State or the local Authority to protect itself against what is at once an intolerable nuisance and a social danger, by the introduction of a System which will allow of the sequestration, for indeterminate periods,

and under an austere system of detention, of that category of Vagrants, who, by a series of convictions for criminal acts, prove to be a danger to society. At the present time, however, no action in this direction is being contemplated by the Government, and the efficacy of imprisonment for the punishment of such offences is still relied upon, in spite of increasing evidence that short sentences are ineffectual as a remedy. So far as the casual pauper is concerned, it is likely that the recent action of the Local Government Board in the unification of the Casual Ward System will be further extended in that direction where the policy, carefully and energetically carried out by the Metropolitan Asylums Board, has already been fruitful in such excellent results.

(2) INEBRIETY :—

It is just fifty years ago since the need for special legislation for the proper control and treatment of inebriates, on the grounds that such persons contributed to crime and lunacy, and caused nuisance, scandal, and annoyance to the public, became apparent. At that time there was no process whereby an inebriate who became a public offender could be dealt with, except by short sentences of imprisonment ; and no means whatever by which a private inebriate could be dealt with, however much he constituted himself a cause of nuisance or distress to his family. The futility of short sentences of imprisonment for the reform of the inebriate offender was fully recognised by prison authorities ; by those who took an active interest in prison reform ; and by magistrates, before whom the same drunkards repeatedly came, in no way improved by the only method then applicable ; and was accentuated by certain notorious cases of persons who served, without improvement, hundreds of short sentences.

In 1872 a Select Committee of the House of Commons agreed that it had been shown, by the evidence taken, that “drunkenness is the prolific parent of crime, disease, and poverty” that “self-control is suspended or annihilated, and moral obligations are disregarded ; the decencies of private and the duties of public life are alike set at

nought ; and individuals obey only an overwhelming craving for stimulant to which everything is sacrificed." No action was taken on this Report until 1878, when a Bill was presented to Parliament for dealing with the more easy and less costly part of the recommendations, *viz* :—those which concerned inebriates admitted voluntarily. No attempt was made to deal with the really important class, *i.e.*, persons convicted as Habitual Drunkards. The Statute of 1879 did no more than permit the establishment of Retreats, to which inebriates could be voluntarily admitted. More than ten years later, in 1892, when the inadequate protection afforded by the Law against the nuisance and the evil of habitual inebriety led to a renewed agitation, especially against the repeated infliction of short sentences for ordinary drunkenness, a Home Office Committee of Inquiry, under the Presidency of an experienced Chairman of Quarter Sessions, Mr. J. L. Wharton, M.P., was appointed. This Committee aimed, as its composition shows, rather at an amendment of the Criminal Law, and the abolition of recurring short sentences of imprisonment, the futility of which had been fully demonstrated. At this time there was less concern with regard to voluntary inebriates who, on the application of relations or friends, might be compulsorily committed to Retreats, than with the grave social evil which resulted from the interminable commitment to prison of persons who by committing offences against public order came within the action of the Criminal Law, or who were proved guilty of ill-treatment and neglect of their wives and families, and who failed to find the required sureties for good behaviour.

The principle of the Act of 1898, which resulted from the findings of this Committee, was that the protection of the community, and the opportunity of reform, would only be obtained by relatively prolonged detention. The Act accordingly legalized detention for a term not exceeding three years (*a*) of persons convicted on indictment, where a Superior Court is satisfied that the offence was committed under the influence of drink, or that drink was a contributing cause, and where the offender admits that he is, or is found by a Jury to be, a

Habitual Drunkard: (*b*) of persons convicted under various Statutes enacting penalties for drunken conduct, who, within the preceding twelve months, had been convicted summarily at least three times of any such offence,— such persons to be confined either in a State Reformatory or in a Reformatory established and maintained by local or independent authority.

Action was at once taken by Local Authorities throughout the country to provide for the reception of cases committed from Courts situate within their jurisdiction, but in the hope and belief that such accommodation would prove sufficient, no action was taken by the State to provide a State Institution until it became manifest that some special means must be created for dealing with cases which proved violent and intractable, and with which the local authorities were unable to cope ; it being admitted that in order that these Reformatories might exercise the most beneficial effect, they must be conducted under conditions as far removed as possible from Prison methods and restrictions. Unless the State were in a position to undertake the charge of such cases, the only alternative would have been to discharge them, and, in fact, such discharges did take place, and it was made clearly evident that the establishment of a State Institution was essential to the proper working of the Act. It was accordingly decided, in 1900, to build a State Reformatory for female Inebriates on a plot of land contiguous to the Female Convict Prison at Aylesbury, and for male Inebriates it was decided to adopt a disused part of Warwick Prison which could be entirely severed from all connection with the penal quarters.

It was decided to confine the use of the State Reformatories to the reception and treatment of persons who had proved uncontrollable in the Local Reformatories. They are conducted on prison lines only so far as is necessary to ensure safe custody and control, and on strictly asylum principles in all matters referring to the treatment of inmates. The application of all restraint and punishment is controlled by the medical aspect of the question. The majority of inmates are persons who, through a long life of debauch, immorality, violence, and crime, have given

constant trouble to the Police in the streets and to Prison Authorities during innumerable penal sentences. They are either too old, too confirmed in their habits, or too demented to afford ground for any hope of reformation. The value of the State reformatory will not consist in the production of actual results, but its existence will permit of certified institutions carrying on a work of reformation otherwise impossible. It will also ensure the retention to the end of their sentence of persons who are dangerous at large, a disgrace to the streets, and an important source of contamination to others. The pity is that at the end of such sentence the law requires the absolute discharge from custody of persons known to be so dangerous and so deleterious to the peace, morality, and health of the community at large.

These State Institutions are under the control of the Prison Commissioners, and form part of the Prison administration. They are controlled by minute regulations, approved by Parliament, and their function is to reconcile, as far as possible, a strict custody and control with certain alleviating conditions and privileges for those who deserve them. Their population is however, relatively small, the average for the three years prior to the War not having exceeded nineteen Males and fifty-seven Females. Since that date the numbers gradually fell, and, at the present time, there are no inmates in custody. The inmates of State Institutions practically represent the persons of both classes who are of a character and temperament incapable of control in local Institutions. As the number committed to the local Institutions diminishes, there is, of course, a corresponding reduction in the number coming under State control.

Although both Sections 1 and 2 of the Act give effect to a most important principle, *viz.*, the special treatment otherwise than by imprisonment, of persons whose offence is due to morbid conditions, affecting the power of self-control, and whom it is practically useless to punish for the offence, while the predisposing condition is left untouched, yet experience, so far, does not furnish evidence that the power given to the Courts is either largely exercised or fruitful of curative effect.

The great majority of cases dealt with under Section 1 of the Act are for cruelty to children (459 out of 586 up to the end of 1913) and the tendency of the day is more and more towards Summary procedure, owing largely to the delay, and expense, and trouble involved by commitment for trial under this Section to the Superior Courts.

With regard to Section 2, which enables Summary Courts to send to Inebriate Reformatories persons convicted of certain scheduled offences of drunkenness, only about 4,300 have been dealt with since the Act became law, although during that period more than 3,500,000 persons have been convicted in Summary Courts of drunken behaviour.

The reluctance of the Courts to pass long sentences of detention, especially in the case of men, (more than 80 per cent. of the commitments are women): the comparative ease and simplicity of commitment to Prison: the delay and difficulty involved by a comparatively cumbrous procedure; and an uncertainty as to the prospect of recovery, as a result of special treatment— all these things operate against any wide use of the law in Summary Courts, which is also hindered by the absence of any definite instruction as to the share to be borne by the State and the Local Authority, respectively, in the maintenance of these Institutions.

Opinion has, however, been by no means indifferent to the operation of the Act, and is far from being satisfied at the present time with the extent of its application. In 1908, the Secretary of State appointed a strong Committee to inquire as to the operation of the Law, and to report what amendments, either in law or administration, were desirable; and their valuable recommendations will probably receive the attention of Parliament in the near future. The principal proposals are in the direction of increasing the power of the Summary Courts, giving to Magistrates a discretionary power to send to Reformatories, in addition to, or in substitution of, imprisonment, all persons who are adjudged to be Inebriates and who commit offences now dealt with summarily by committal to Prison. It is also

proposed that the necessity for proving three previous convictions shall be abolished, and that the State should, at its own cost, provide for the accommodation and maintenance of all Inebriates committed by Courts. With regard to penalty, the free use of the Probation Act was recommended under special conditions suitable to the case. If, however, Probation were not thought desirable, it was proposed that the first sentence to a Reformatory should be for a period not exceeding six months, to be followed by a period of Probation; but where an Inebriate forfeits such Probation, on breach of its conditions, he shall be liable to be committed to a Reformatory for a period not exceeding one year, again, on release, to be subject to Probation; but if he again forfeits such Probation, for two years, and, in the event of further forfeiture, for three years.

Should these recommendations be adopted by Parliament, it is possible that greater results than at present might be achieved, and the measure might find larger application. It is doubtful if the public sentiment is keen to penalize inebriety, when it does not result in serious harm to the community, by methods of long detention under discipline and control. In so far as the proposals of the Committee of 1908 modify these long periods by placing offenders on Probation, there may be disposition on the part of the Courts to take this course, except in cases where the overt criminal act resulting from inebriety is grave and serious, and where punishment under ordinary penal law is called for. There is, moreover, a feeling which operates against harsh or drastic sentences in the case of inebriety, due to the proved association between mental disorder and habitual drunkenness. Experience of the operation of the Law of 1898 has confirmed this belief. Of the more turbulent cases whom it has been necessary to transfer to State Inebriate Reformatories for purposes of control, it is found that a very large proportion are more or less defective in mind. That such persons should be segregated from their fellows, and from the opportunity of doing harm is, of course, a great gain; and, of itself, would justify the cost of these Institutions, which is considerable.

It must be frankly recognized that in these cases the purpose of detention is for the public safety, and not with the hope of reform. The law protects the community by compulsory segregation within a limit of three years, although the criminal offence will probably in most cases only warrant a short sentence of imprisonment. This is something gained in the interests of order. It does not constitute an encouragement to make further efforts for the cure of habitual inebriety by means of costly Institutions, and for this reason, apart from the inherent difficulties of the case, rapid progress in dealing with this evil in this country can hardly be expected. The Prison Authority is only concerned with this question of inebriety as a factor of crime. By many writers, drink and crime are used almost as synonymous terms, yet nothing is so difficult as to trace the extent to which criminal statistics are influenced by drink. In 1913, the actual convictions for drunkenness represented 32 per cent. of the total convictions for all offences, but in addition to this, must be reckoned the number of offences to which drunkenness was directly a contributing cause. It is a reasonable inference that alcohol enters, as a contributing factor, into about 50 per cent. of offences committed in this country in any given year. To legislate against drink is indirectly, therefore, to legislate against Crime. As shown in Chapter XVII, a striking illustration has been afforded showing the great decrease in crime generally which has taken place during the War, when severe restrictions have been placed upon the sale of intoxicating liquor. In previous years, in times of industrial prosperity and plentiful wages, convictions for drunkenness have been enormous, and have obscured the decrease which has taken place, as a result of prosperity, in other offences, *e.g.*, Vagrancy, and petty larceny.

In his Report for 1909, Dr. Branthwaite, the Inspector under the Inebriates Acts, furnishes a most valuable and interesting analysis of the life history and mental and physical conditions of 1,031 persons. This investigation was conducted by himself personally, and throws a flood of light on the nature of the problem to be dealt with. He states that as a result of his inquiry, "three points

of vital importance stand out clearly—(1) the close association between inebriety and psycho-neurotic disturbance, (2) the physical unfitness resulting from a life of uncontrolled inebriety, and (3) the necessity for the organisation of more suitable methods for dealing with persons who offend against law and order by reason of habitual drunkenness.

The presence of obvious mental defect in a large proportion of cases, and (in cases not obviously defective) the criminal tendencies, the proneness to immorality, the uneducability, the early age at which disorderly habits commence, the ease with which all inmates become excited by alcohol, and their unreasonable behaviour in a hundred different ways, are conclusive evidences of the existence of a mental state far removed from normal, in nearly all cases committed to Reformatories. To attempt to attribute all such conditions to vicious indulgence in alcohol is absurd; they existed in the large majority of cases long before drunkenness appeared, or they developed *pari passu* with the drunkenness from a common cause. When mental defect is obvious, it will usually be found responsible for the drunkenness; when not sufficiently definite to be recognised, a modified morbid strain, a heredity of disorder, a psycho-neurotic fault, a constitutional peculiarity, call it what we may, will generally be discovered as the key to the position."

His condemnation of short sentences in Prison as a cure for inebriety in all its forms is expressed as follows:—

"The arguments in favour of the substitution of something better than the short sentence prison treatment of inebriates hold good, whether the individual be reformable or not. The routine of a prison is no more suited to the needs of the habitual drunkard than it is suited to the treatment of any other form of mental unsoundness. The inebriate requires careful medical attention, regular bathing, physical exercise and drill, with a view to the recovery of physical, as a preliminary to recovery of mental health. His condition demands harder, more continuous and healthy work than is possible in the confines of a cell, or even within the restricted area of prison walls. Either in the form of education, work or play, he

wants occupation of some sort throughout the day, in company with his fellows, under supervision only just sufficiently strict to prevent its misuse. Discipline is essential, but it should be the discipline of army barracks, or a ship; not the necessarily hard routine of a prison. Punishment, as such, must be kept in the background, and, so far as is possible, encouragement for good conduct, and reward for good work, should replace the fear of the results of bad conduct and idleness. But, above all, he requires medical treatment for his disordered mental state applied as early as possible after the condition is recognised. The nearer an Inebriate Reformatory resembles a mental hospital in all its arrangements, the better will be its suitability for the work it has to do, and the more the mental aspect of inebriety is kept in the foreground, the more satisfactory will be the results of treatment and control."

It is true that the views expressed by Dr. Branthwaite seem to indicate as a rule the dependence of habitual inebriety on pre-existent "mental defect", and will not, as such, be accepted by general authority; and it is well known that a strong tendency to drink to intoxication exists in very many persons and families who show no other signs of deficient intelligence or loss of self-control. But the experience of many other observers who have dealt with inebriates committed by the courts to reformatories under the Act undoubtedly corroborates Dr. Branthwaite's opinion that notably large numbers of such inebriates have been markedly defective in mind from even their earliest years.

The question is well summed up in the general observations on the nature of Inebriety in the Report of the Committee of 1908:— "Inebriety is undoubtedly a constitutional peculiarity; and depends, in many cases, upon qualities with which a person is born, in many is acquired by vicious indulgence. Whether the possession of such a constitutional peculiarity, when inborn, should or should not be considered, from the scientific point of view, a disease, is perhaps, a question of nomenclature. If such native constitutional peculiarities as the possession of a sixth finger, and the absence of a taste for music,

are rightly considered diseases, then the native constitutional peculiarity which underlies many cases of inebriety may be so considered. But there are cogent reasons why the term disease should not be used to characterise the inebriate habit. By disease is popularly understood a state of things for which the diseased person is not responsible, which he cannot alter except by the use of remedies from without, whose action is obscure, and cannot be influenced by exertions of his own. But if, as is unquestionably true, inebriety can be induced by cultivation; if the desire for drink can be increased by indulgence, and self-control diminished by lack of exercise; it is manifest that the reverse effects can be produced by voluntary effort; and that desire for drink may be diminished by abstinence, and self-control, like any other faculty, can be strengthened by exercise. It is erroneous and disastrous to inculcate the doctrine that inebriety, once established, is to be accepted with fatalistic resignation, and that the inebriate is not to be encouraged to make any effort to mend his ways. It is the more so since inebriety is undoubtedly in many cases recovered from, in many diminished, and since the cases which recover or amend are those in which the inebriate himself desires and strives for recovery."

CHAPTER XIV.

“PATRONAGE” OR AID TO DISCHARGED PRISONERS:
ITS EFFECT ON RECIDIVISM.

As prisoners in this country are classified broadly into two categories (1) those sentenced to penal servitude—“Convicts:” (2) those sentenced to ordinary imprisonment—“Local,” or short-sentenced prisoners,—so has the system of aid-on-discharge varied according to the category to which a prisoner belongs. For Convict Prisons there has been, until lately, no system of aid-on-discharge strictly so-called. What is known as the Gratuity system in Convict Prisons operated for many years as the principal means for providing a convict on his discharge with means of obtaining the necessities of life. There was no Discharged Prisoners’ Aid Society immediately connected with the establishment from which the convict was discharged, as in the case of Local Prisons, but certain Metropolitan Societies, notably the Royal Society for the assistance of Discharged Prisoners, and later the St. Giles’s Christian Mission and the Church Army and Salvation Army, came to be recognized as the agents for helping a convict on discharge. There was no Government Grant. It was voluntary on the part of the convict whether he should place himself in the hands of such a Society. If he so desired, the Gratuity that he had earned would be paid to him through the Police or otherwise at the place whither he went on discharge. A Gratuity, as already described, was a sum of money which could be earned under the Progressive Stage System for general industry with good conduct: it had no relation to the value of work done, being based simply on the degree of industry, and apportioned to what is known as the Mark System *i.e.*, so many marks represent-

ing so much cash. The English Gratuity System was, therefore, quite different from what is known on the Continent as the "*Cantine*" or "*Pécule*" System, under which a prisoner receives a percentage of the actual profit of his work, and which he is allowed to spend on diet or otherwise during detention. An English convict (unless in the Long Sentence Division or under Preventive Detention) was not allowed to spend any part of his Gratuity while in Prison, but it was accumulated as a small cash fund to provide against the day of discharge. £6 was the maximum that could be earned, but the average amount earned would be considerably less than this. In old days it was possible for convicts to earn large sums of money, but the practice was condemned by a Royal Commission in the middle of last century, and, since that date, the amount earnable has been limited as stated.

With regard to Local Prisons, from the earliest times it was not uncommon for persons to leave bequests for the relief of prisoners on discharge from Prison, some of these dating as far back as the 15th century. The first legal enactment took place in 1792, by which Judges and Justices were authorized to order any prisoner on discharge to be conveyed by pass to his own parish. About this time, Societies began to be established for the relief of prisoners on discharge. One of the earliest — the Sheriff's Fund Society (which exists at the present time), was founded in 1807—8 for the relief of necessitous prisoners discharged from Newgate Gaol. Another Institution, known as the "Temporary Refuge for Distressed Criminals" discharged from the London Gaols, owed its origin to the efforts of the Society for the Improvement of Penal Discipline. It was commenced in 1818, but was soon after closed for want of funds.

In 1823 an Act of Parliament was passed giving power to Justices to direct that such moderate sum should be given to any discharged prisoner, not having the means of returning to his family, or resorting to any place of employment, as in their judgment should be requisite, such sums to be paid either out of benefactions or as Prison expenses.

Soon after this time, numerous Societies came into existence. One of the most notable experiments of this kind was the Birmingham Discharged Prisoners' Aid Society. A report issued at this time by the Chaplain of the Prison, the Rev. J. T. Burt, stated that the Society took its rise in the conviction of its founders that crime is to a considerable extent the result of external circumstances. The Society employed an agent to canvas employers for work, and found lodgings in the homes of poor persons of respectable character for the discharged prisoner. In special cases it gave guarantee to the employer against special loss in the event of his sustaining injury through the person recommended to him. The whole plan was reported to work successfully.

A prisoners' relief Society was formed in connection with Worcester Prison in 1840. Its rules provided, as an inducement to employers of ex-prisoners, for the grant of a weekly sum of money. This allowance might continue for three months, being subject to withdrawal in unworthy cases. For prisoners who could not get work, an allowance not exceeding four shillings a week might be paid for a period not exceeding one month.

Another early experiment was the "Gloucester Refuge for Discharged Prisoners" commenced in 1856. Prisoners on discharge from the County Gaol were, on the recommendation of a Visiting Justice or the Chaplain, maintained free of charge for a fortnight, after which a small charge was made. On employment being found they handed over the whole of their earnings, any balance remaining being handed to them on leaving the Institution. The stay of unemployed inmates was limited to fourteen days, and in no case exceeded one month.

Another phase of relief to discharged prisoners took the form of an "Industrial Home" at Wakefield, founded in 1856, under the auspices of the Governor of the House of Correction for the West Riding. It was said to be self-supporting, manufactures being carried on. Lodgings were found for inmates outside the Home.

These three experiments are said to have compared favourably as regards expenditure with those having

the same object in view, which had been established in London, and known as the London Reformatory, the Preventive and Reformatory Institution, and the Metropolitan Industrial Reformatory at Brixton.

About this time, Societies for aiding ordinary prisoners on discharge were formed at many of the larger Prisons, *e.g.*, the Hull, East Riding, and North Lincolnshire; Glamorganshire; North and South Stafford; Leeds; West Kent; Manchester; Liverpool; and the Metropolitan Aid Societies, all of which are in existence at the present time.

The success of the Birmingham experiment is said to have led to the passing of the Act of 1862, which recited that Aid Societies had been established by voluntary effort, and gave power to Justices to pay a sum not exceeding £2 to such Societies, to be expended on behalf of the discharged prisoner.

Another Act was passed in 1865 which re-enacted a similar provision to that contained in the Act of 1862, the expense to be borne by the local rates. Under the Prison Act of 1877, it was laid down that "where any prisoner is discharged from prison, the Prison Commissioners may, on the recommendation of the Visiting Committee or otherwise, order a sum of money not exceeding £2 to be paid by the Gaoler to the prisoner himself, or to the Treasurer of a Certified Prisoners' Aid Society or Refuge, on the Gaoler receiving from such Society an undertaking to apply the same for the benefit of the prisoner."

This being the law, two general observations may, I think, be made with regard to it (1) that the duty of aiding prisoners on discharge has been recognized from the beginning of the century as a public duty to be borne by public funds, the Voluntary Aid Society being ancillary for this purpose, *i.e.*, to assist in the disbursement of public money, and *incidentally*, at least, in the first instance, to increase it by private benefaction (2) that in its origin this grant was a charitable gift, irrespective of the prison history and conduct of a prisoner, and the total sum expended might assume large proportions, the maximum of £2 being permissible for *any* prisoner,

As a matter of fact, the local authority used this power very sparingly. A Return is given in Appendix 19 of the Second Annual Report of the Commissioners, and shows that the total discharges for the three years preceding 1878 were, roundly, 370,000, and the total gratuities paid to prisoners, roundly, £11,000, or a proportion of about 7d., per head, the sums given varying greatly in the different districts, *e.g.*, Cold Bath Fields Prison gave £3,000 and Manchester £60 for a nearly similar number of discharges (circ. 30,000). In some Prisons, there was a system of giving a percentage on the value of work done, but this did not prevail to a large extent, and the above statement may, I think, be taken as roughly representing the extent to which monetary help was forthcoming to discharged prisoners before the prisons passed into the hands of the Government.

At this point, as was to be expected, when every other Department of Prison administration was undergoing revision and reconstruction, the question of devising a system of aid-on-discharge received a large share of notice. As before stated, the law of 1877 gave the power to grant £2 to any prisoner. There was, therefore, no legal difficulty in the way of continuing the same method that had previously prevailed, *viz.*:—in deserving cases of granting a sum of money on the recommendation of the Visiting Committee, or otherwise. This comparatively simple method was not resorted to, and apparently because it seemed to the authorities to be too capricious in its operation, to work unevenly, and to lack that precision and uniformity which it was the object to establish. Moreover, as stated, it had no relation to the conduct and industry of a prisoner, and it was only natural that the Commissioners should be predisposed in favour of the system of gratuities under the Progressive Stage System, at that time working with success in Convict Prisons, and where the money that a prisoner could earn by industry with good conduct was also a gratuity or benefaction which, under proper direction, might be used for his benefit on discharge. In their Second Annual Report, the Commissioners stated “There is no reason why such a system of awarding gratuity for

industry should not be worked in conjunction with that of aiding prisoners with reference solely to their needs on discharge. As respects the grants of aid, it is, in our opinion, essentially necessary to success that the co-operation of persons unconnected with the prisons should be secured in order that *by their aid* and interest, prisoners may be provided with employment." Here we have, therefore, a distinct departure, the so-called 'gratuity' of the convict system taking the place of the former grant in aid in Local Prisons; or, in other words, one of the methods for securing Prison industry and conduct being utilised for the additional purpose of supplying the needs of a prisoner on discharge. It is, I think, obvious, that such a scheme—though it worked well in regard to convicts where the maximum gratuity might reach £6—is not applicable to Local Prisons where the maximum is fixed at ten shillings, and where few prisoners reach their maximum, or even a considerable portion of it, owing to the shortness of their sentences. However, the attempt was made, and a sum of £5,000 taken in the Estimates under the heading of "Gratuities"—an equivocal term, meaning both the earnings of prisoners under the Progressive Stage System and also the charitable donation, which was to benefit the prisoner on discharge. It soon became apparent that the effect of this policy would be to starve existing Aid Societies and to paralyze their powers of good. Strong representations were made to the then Secretary of State that it had become impossible to help short sentence cases—often the most deserving and including most of the first offenders—and in December, 1878, a Conference of Aid Societies was held to "protest against the failure of the Stage or Mark System for the purpose of aid on discharge," and a resolution was passed asking the Government to make a grant in addition to the gratuities under the Stage System at the rate of one shilling a head of total discharges. In consequence of this, the Home Office decided that the Stage System should be considered as a matter of discipline, but that assistance to Discharged Prisoners' Aid Societies should be on a different footing: and that it was reasonable, and in accordance with public opinion, to make a grant either

according to the number of cells or the number of discharges *provided a certain proportionate amount is voluntarily subscribed*. Here are contained two important assertions of principle on which has been based the action of the Government since this date.

- (1) that it is the duty of the Government to make a charitable donation in aid of discharged prisoners in addition to the gratuities under the Stage System, which are an affair of prison discipline.
- (2) that the sum should be regulated by the amount of private subscriptions, provided that a maximum calculated on the total number of discharges is not exceeded.

In short, the State goes into partnership with bodies of charitable and benevolent persons, duly certified under the Act, in order to secure a double object (*a*) the State object, that steps shall be taken at least to lessen the chances of a man's relapse into crime (*b*) the private and charitable object of relieving misfortune and distress.

After some correspondence, the Treasury agreed to the principle, and in addition to the money already taken for gratuities in Local Prisons (£5,000), an ultimate limit of £4,000 was sanctioned for this purpose, and its expenditure was regulated by the following conditions:—

- (1) that there should be assigned to each prison the proportion of this sum which its average number of prisoners or of discharges bore to the total number of the same.
- (2) that there should be a Discharged Prisoners' Aid Society in connection with the Prison, and that voluntary subscriptions should be at least an equal amount.
- (3) that the Society, if required, take charge of the sums earned under the mark system.
- (4) that the grant should be exclusively for the benefit of prisoners recommended by the Prison authorities as industrious and fairly conducted.
- (5) that the grant shall not in any case exceed £2, inclusive of the sum earned under the Stage System.

The System, however, did not work satisfactorily; and the Departmental Committee on Prisons of 1894, after

considering the matter, reported that it did not appear that there was either uniformity of action under definite principles, or that the various Societies were so far organized as a whole that the effect of aid could be satisfactorily ascertained. There seemed to be a great and unnecessary variation in the methods of working. They advised that a special inquiry should be undertaken into the character, and working, and methods, of each Society, and were in favour of an increase in the Government Grant where it was shown that Societies were working on principles approved by the Government, and with success. Such an inquiry was undertaken by the Commissioners in 1896, and, at the end of the following year, a Circular was issued by them prescribing Rules for the future regulation of all Aid Societies.

In suggesting these Rules, the Commissioners made it clear that it was not their desire or intention to coerce or interfere with the free liberty of action of Societies which were of course only subject to official control so far as they might draw a subsidy from public funds. They pointed out that "the central authority has opportunities not possessed by individual societies of collating information as to the methods and working of all Societies; and upon the knowledge thus obtained, of forming an opinion as to what are, on the whole, the methods most likely to succeed in attaining the objects which the Societies and the Government have in view: that uniformity of procedure does not necessarily connote official control. As there has been in the past, so there must be in the future, official control to this extent, *viz*:—that it is the duty of the Government to satisfy itself in all cases where there is a grant, however small, from public funds, that the grant is expended in a proper and effectual way on the object for which it is designed: that the Commissioners are, on the one hand, the trustees for the Government grant, and, on the other, the responsible authorities for carrying out the sentences of the law, and, though their strict duty ends when the prisoner has purged his crime, and left the prison gate, common humanity demands that some care shall be bestowed by the State on the discharged prisoner, both in order to relieve his immediate

necessities, and to make his re-entry into honest life possible and less difficult: that it is in the fulfilment of this latter duty that they have in the past been able to avail themselves of the assistance, warmly proffered and gratefully accepted, and in very many cases zealously and effectually rendered, of certified Societies for the Aid of Discharged Prisoners: that these Societies now form a network of charitable and philanthropic effort spread throughout the country and working in connection with each prison: that their work, though due to private initiation, and mainly supported by private subscriptions, has nevertheless such public importance and value, that it is becoming more the duty and concern of the Government, not indeed to fetter and harass their free and independent action by the imposition of binding official rules and regulations, but to encourage and stimulate their efforts, to offer direction and guidance, and it is in this spirit, and not with any desire to override or control the free play of benevolent action, that the Commissioners desire to suggest, for the guidance of each Society, the methods which they believe to be the most effectual."

The Scheme was as follows:—

(1) That the Governor and Chaplain should, in all cases, be members of the Committee, and should act with, or as, a Sub-Committee under the larger body, for the purpose of dealing with small cases, and those under short sentences.

(2) That the Visiting Committee should, if possible, in all cases be members of the Discharged Prisoners' Aid Society, and take an active share in its management, *especially in cases where they are also Trustees of the Prison Charity.*

(3) That a Sub-Committee of ladies be appointed for the assistance of female prisoners, and that they act under instructions prescribed for them by the Commissioners.

(4) That for both male and female prisoners, Agents should be appointed in all cases.

(5) That the Society should establish relations with any Labour Homes or Institutions for men and women that may exist in the county or district, and shall arrange

for the charge of cases by payment of a capitation grant.

(6) That the Society should appoint corresponding members or committees, *e.g.*, Clergymen, Police Officers, private individuals (male and female) in districts remote from the Prison with the object of (*a*) paying gratuities; (*b*) following up a case; (*c*) securing care and superintendence in a deserving case; (*d*) furnishing information with a view to employment.

(7) That the Society should take charge of *all* gratuities and arrange for their disbursement in a manner most advantageous to the prisoner, and calculated to prevent the immediate and useless dissipation of the money. Payments of cash in lump sums should, as far as possible, be avoided, and receipts for all cases should be taken for the aid which has been given. Payments by instalments and through the agencies described in (6) will be preferred, and when necessary, payments in kind by the purchase of clothes or materials, according to the needs of each case.

(8) That the Society should allow other benevolent societies or persons desirous of assisting discharged prisoners to make arrangements for so doing, subject to its approval and control.

(9) That the Societies should co-operate with each other by mutual arrangement, in taking charge of cases coming from districts other than their own; especially of the juveniles whose sentences are in excess of one month and who are transferred to collecting or district prisons, and who thus by being moved out of their own localities might suffer by being deprived of local interest in their case.

It will be seen that these Regulations did not fundamentally alter the principles according to which the aid to discharged prisoners had hitherto been regulated. Gratuity remained part of the system: there was no proposal to increase the Government Grant, and the new Regulations applied only to prisoners discharged from Local Prisons. The object in view was mainly to secure greater uniformity in method, and otherwise to secure the co-operation of any outside agencies, persons, or Institutions which might be able to give assistance in the

districts where the prisoners were discharged.

No further action was taken in the way of improving or altering the system of aid-on-discharge in either Convict or Local Prisons till some ten years later, when a very important step was taken, completely changing the system of the former, and largely modifying that of the latter. The Commissioners informed the Secretary of State in 1909 that, after full consideration, they had come to the opinion that the task of rehabilitation in the case of a man on discharge from a sentence of Penal Servitude was too difficult and too costly to be left entirely to voluntary Societies unaided by any grant of public funds, and working independently of each other, at a problem where unity of method and direction are above all things required. Mr. Secretary Churchill, to whom these views were represented, at once agreed that a new Agency should be established for the aid of discharged convicts, and announced his decision in the House of Commons in July, 1910. The new Association has accordingly been formed, and is called, "The Central Association for the Aid of Discharged Convicts." It combines, for the common purpose of aiding prisoners on discharge from penal servitude, all those Societies which had hitherto been operating independently at Prisons. This new Association is subsidized by the Government, and is not dependent on voluntary contributions. At the same time, the Gratuity System has been discontinued, and the Association undertakes to provide in the case of every discharged convict, so that he may not be without the necessaries of life, and a fair prospect of rehabilitation on the day of discharge. The Association, which is under the capable management of Sir Wemyss Grant-Wilson at 15, Buckingham Street, W.C., established a procedure by which every convict is interviewed at a reasonable period before discharge. At this visit, his wishes and circumstances are ascertained, and if he desires to place himself under the care of any of the Societies represented on the Association, arrangements are made accordingly.

The Association is governed by a General Council, of which the Secretary of State is President, and on which the Societies and Institutions hitherto operating in this

particular field of charity are represented.

While these great changes were proceeding in the Convict System, I was endeavouring also by conference with representatives of Discharged Prisoners' Aid Societies of Local Prisons to obtain their agreement to certain changes in the system of aid for Local prisoners, having been led by experience to the opinion that a greater efficiency might perhaps be attained in dealing with prisoners discharged from Local Prisons under a different system. I submitted certain propositions, the object of which was, within the limit of existing financial resources (public and private), by an alteration of the financial arrangements, to increase the powers and duties of Aid Societies, subject to a sufficient control of public funds on the part of the Commissioners.

This could only be made possible by discontinuing the practice of allowing certain prisoners to earn gratuities *as a matter of right* by good conduct and industry in prison. Long experience had led the Commissioners to the opinion that the Gratuity System in Local Prisons was not a success. It was originally borrowed from the Penal Servitude System at the time when Local Prisons were centralized at Whitehall, and was generally accepted as a sufficient discharge of the power conferred on Justices of the Peace under Section 42 of the Prison Act, 1865, for making provision for the benefit of discharged prisoners, but it was ineffective, as a means of charity, because such a relatively small percentage of prisoners (*i.e.*, only those whose sentences were over one month) would profit by it, and, secondly, as a means of discipline in securing the good conduct of the prisoners by the hope of earning a small sum on discharge, it could now be dispensed with, as the power to earn remission, conferred by the Prison Act, 1898, constituted, in the opinion of the Prison Authorities, a sufficient inducement to abstain from acts by which this highly-prized privilege could be lost. It was therefore desirable that the benefits conferred on prisoners by the Gratuity System should be secured to them in some other way. The State was paying in Gratuities at that time about £8,000 a year, and between £3,000 and £4,000 by

way of grants to Aid Societies, under the scheme approved in 1897. To this total of about £11,000 a year the Aid Societies were contributing, roughly, about £10,000 a year. My proposals were (1) to abolish all gratuities: (2) to raise the Government grant from 6*d.* to 1*s.* per head: (3) to place this money at the disposition of the Aid Societies, at a rate corresponding to the number of prisoners discharged from each prison, subject to certain conditions, the principal of which were that every Discharged Prisoners' Aid Society should: (*a*) be duly registered with a certificate of the Commissioners that it is properly and efficiently organized: (*b*) that the increased Government grant should be met by a local annual subscription equal to one-half of the amount: (*c*) that the money hitherto spent on Gratuities should be handed over to the Discharged Prisoners' Aid Society, no Society to receive less in grant than the annual average amount of gratuity earned at the prison during the last triennial term.

The effect of these proposals, which were finally approved by the Secretary of State and the Treasury, at the beginning of 1913, was obviously to increase very materially the amount which each Society receives from public funds. The intention is that every case, *irrespective of length of sentence*, shall receive the *personal* attention of the Aid Society attached to the Prison, whose resources are considerably increased under the present plan. The Government having great confidence in the earnest purpose of the Discharged Prisoners' Aid Societies throughout the country, felt justified in asking them to undertake this greater responsibility. In giving effect to these proposals it was pointed out to the Aid Societies that it could only be undertaken, with any prospect of success, and even with fairness to the prisoner (especially if under a long sentence, and henceforth to be deprived of his Gratuity), subject to the following conditions—

1. The affairs of the Society shall be managed by a Committee. The Committee shall appoint a Sub-Committee whose duty it shall be to meet weekly at the Prison, and to make provision for assisting prisoners due for discharge in the ensuing month or fortnight. The

Sub-Committee shall consist of at least one member of the Discharged Prisoners' Aid Society, to be selected by roster or otherwise, in addition to the official Prison Authorities. The Governor, Chaplain, Priest, and Minister of the Prison shall be *ex-officio* members of the Committee and of the Sub-Committee. Lady Visitors shall also be members of both.

2. Where the amount of work to be done is sufficient, the Society shall appoint an agent or agents to act under their direction generally, and in particular:—

(a) to find employment for discharged prisoners.

(b) to find respectable lodgings or Homes in which discharged prisoners may be placed and maintained in suitable cases.

(c) to visit, encourage, and report on the progress of all persons under the care of the Society.

(d) to accompany prisoners to the railway station and see them off, if required.

3. The Society shall keep a record of its dealings with all discharged prisoners, and shall publish an Annual Report, with statements of results and of Accounts in an approved form. The accounts shall be audited by a Chartered Accountant. Three copies of such report shall be forwarded to the Commissioners not later than the 14th of April in every year.

4. The payments and grants received from the Commissioners shall be expended for the benefit of prisoners, and shall not be invested.

5. The Society shall render assistance to all deserving cases on discharge, irrespective of length of sentence, all prisoners being deemed to be eligible for assistance provided that they are, in other respects, worthy of the consideration of the Society, special attention being paid to the longer sentenced prisoners who formerly earned gratuity.

6. The Society shall co-operate with the Borstal Committees in giving special attention to the assistance on discharge of persons treated under the "Modified" Borstal System.

The new scheme is working satisfactorily, and there are signs everywhere that the result has been to encourage

and stimulate the action of the Societies by throwing a great and new responsibility upon them, and by placing in their hands a considerable sum of public money, to be spent according to their discretion and not according to a fixed and mechanical rule, as was formerly the case under the Gratuity system. There is every reason to hope that the system of aid-on-discharge, both in Convict and Local prisons, is now placed on a sound and effective basis, and that through its operation, many cases will be saved from a relapse into criminal ways, owing to the personal care and individual attention which the new system postulates as a condition of efficiency. During 1918, 21,388 convicted prisoners were discharged, of whom 7,719, or 36 per cent., were aided, and of these latter, 75 per cent. were suitably placed in good employment. Twenty-eight Aid Societies were able to find employment for over 50 per cent. of the cases aided by them.

The new system in each case, both for Local and Convict Prisons, furnishes a remarkable example in the application of what may be called the new spirit in the Prison Administration of this country, *i.e.*, the cordial and harmonious co-operation between official and voluntary effort, which experience shows every day to be not only the best, but the only effective method for dealing with the problem of the discharged prisoner.

An important change has recently been made in the machinery of the Central Organization of Aid Societies. Prior to 1917, the central representation of Aid Societies had been by means of a Committee of the Reformatory and Refuge Union, known as the Central Committee of Discharged Prisoners' Aid Societies. The Reformatory and Refuge Union had, in the early 'sixties, warmly taken up the question of aid-on-discharge, and, by its energy and initiative, had become the principal instrument for the organization of Societies dealing with short-sentenced prisoners. In 1878, soon after the passing of the Prison Act, an important conference of Aid Societies was convened by the Union, at which a Committee was appointed having generally for its purpose to extend the operations of Aid Societies, as well as to maintain existing Societies and to increase their efficiency. This historical

connection with the Reformatory and Refuge Union remained till the present time, and of late years, the Central Committee, under the able direction of its Chairman, Lord Shuttleworth, has rendered valuable service in calling attention to various reforms by means of conferences invoked, from time to time, in different centres. There had, however, been manifested of late years a growing desire on the part of many Societies for some change in the central organization, which should have the effect of strengthening the Executive function of the Central body, so that its influence might be extended and advantage taken of its large common stock of experience for the investigation of new methods of development. The Chairman of the Royal Aid Society, Mr. F. P. Whitbread, acting in agreement with the representatives of some of the leading Societies, proposed a scheme for the establishment of such a Central Executive body, to meet periodically for discussion, and with power to appoint sub-Committees to enquire, and report, and advise as to the adoption of improved methods of relief for the various categories of prisoners of both sexes. The new body, known as the Central Discharged Prisoners' Aid Society, was formally instituted by general consent at the beginning of 1918, Mr. Whitbread being elected Chairman of the Central Executive Committee, and the Commissioners were invited to nominate three members to serve on the Executive. The new system is only a variation of that hitherto pursued; but its effect will be to bring a more direct influence on the various Societies, all of whom will be represented on the Executive. In this way not only uniformity of procedure, but an agreed policy in the pursuit of a common purpose, is likely to result. It is only the complement and the fulfilment of the public-spirited and beneficent work undertaken in the beginning by the Reformatory and Refuge Union, acting through the Committee of 1878, and to that body must be given the credit not only for pioneer work in originating the system of aid-on discharge in this country, but for the growth of public interest and zeal in the development of this particular branch of social work, to which the recent change of methods bears witness.

During recent years, the work of Aid Societies has been extended to the assistance of the wives and families of men undergoing imprisonment, and the steps taken will insure that, in future, no deserving case will be overlooked, and the suffering that has been endured by hundreds of innocent women and children will become a thing of the past. Various agencies have rendered assistance in making the necessary inquiries, chief among them being the National Society for the Prevention of Cruelty to Children, the Church Army, and the Charity Organization Society.

Owing to the War, no general effect has yet been given to the powers taken by Section 7 of the Criminal Justice Administration Act, 1914, to subsidise a society for the care and control of persons under the age of 21, being either on Probation, or placed out on licence from a Borstal Institution or Reformatory or Industrial School, or under supervision within the meaning of Section 1 (3) of the same Act (vide page 82). As President of the newly-constituted Central Committee of Discharged Prisoners' Aid Societies, I recently took the opportunity of appealing for the establishment of a National Society for the Prevention of Crime and for the Protection of the Young Offender. All these categories of young persons named are now being attended to by different Agencies or persons, the same agent often acting for different classes, though not under the same authority. Such a National Society, though not interfering with liberty of action of each, would co-ordinate the whole, and such exchange of voluntary service might be of the greatest benefit, and would provide the rallying point for all forces, both secular and religious, now occupied in the task of rehabilitating those who have fallen under the ban of the criminal law.

So far, I have dealt only with "Patronage," as applied to Convict and Local Prisons. There are two other categories of prisoners who are dealt with on discharge in a different way, *i.e.*, those discharged under the Prevention of Crime Act, 1908 (*a*) from Borstal Institutions (referred to in a former chapter): (*b*) from Preventive Detention.

The Gratuity System still remains in force for both

these classes, its object being, in the former case, that the inmate should have a small *pécule* at his disposition, which, taken in conjunction with such assistance as the Borstal Association are able to give, may furnish material help towards his reinstatement; and, in the latter, where a prisoner may be awarded 1d., 2d., or 3d., for every working day according to the nature of work, and skill, and industry displayed. The money thus gained may be spent, either in purchasing certain articles in the canteen, or be sent to a member of his family: if accumulated, it would, in the event of conditional licence, be paid over on the prisoner's behalf to the authorities of the Central Association to be expended in such way as they may think fit for his benefit.

The Gratuity System also remains in force for those young prisoners who are treated under the "Modified" Borstal System in Local Prisons, as before explained, the object being not only to provide a stimulus for labour and good conduct, but to furnish means for material aid on discharge in cases considered by the Borstal Committee operating at each Prison, for the purpose of the reinstatement of these lads in honest industry. Moreover, they are not entitled to earn remission in the same way as are other prisoners under the provisions of the Prison Act, 1898. It is because ordinary prisoners have enjoyed this privilege since 1898 that it was found possible to abolish the Gratuity System for them, the necessary stimulus for industry with good conduct being provided for by the hope of remission of sentence, which experience shows to be more effective for the purposes of discipline than the fear of losing any portion of the money to which they may have become entitled under the Progressive Stage System.

For many years prior to the War, statistics of recidivism had indicated, at least so far as serious crime tried on indictment was concerned, that the mass of criminality was being confined to one set of people, who were slowly passing to the later age categories, and leaving a reduced number to take their place. The Tables printed below show the remarkable decline in recidivism that has taken

place, especially since the War. A large proportion of this decrease may doubtless be credited to the extraordinary growth of "Patronage", or aid-on-discharge, which has taken place during the last quarter of a century. For many years past, the Borstal Association has been successful in reclaiming over 70 per cent. of the lads, 16-21, released to its care; and among hardened convicts, the Central Association is able to furnish remarkable figures. In their report for 1914-15 they showed that since its foundation in 1911 the following numbers of discharged convicts had passed through its hands each year:— 1,147, 878, 761, and 792. Of this body, the numbers still out of prison on the 1st April, 1915 were 527, 474, 449, and 662 respectively. Of those discharged during 1914-15 the numbers in the "Star," "Intermediate" and "Recidivist" classes were, respectively, 77, 187, and 528. The number reconvicted in each category was 2, 21, and 107. As we pass, therefore, from the "Star," or First Offender category, the difficulty of successful after-care becomes manifest; thus, while only two First Offenders were reconvicted, the reconvictions in the case of "Intermediates" and "Recidivists" were 11 and 20 per cent. respectively. It is clear, however, from the Annual Report of the Association, that they are far from being dismayed by what must be, in many cases, a hopeless struggle with this resisting mass of recidivism. They look forward, and with good reason, to the hope that lies in the future, *viz.*:— that what they describe as "the stage army of recidivist outlaws" will be steadily and permanently reduced in Convict Prisons, not only in consequence of a better system of after-care, which, under new methods, now awaits the convict on his first discharge from penal servitude, but as the certain result of concentration of effort on the young, or adolescent offender. To find work for 366 out of 792 discharged convicts is by itself striking evidence of the vigour, method, and real zeal which characterizes the work of the Association; to be able to report that 662 of these men were known to be satisfactory at the end of the year furnishes proof of a work which must, from the character and antecedents of these cases, be extremely difficult and unpromising, and

shows that the men must have been the subject of much careful shepherding.

About ten years have elapsed since the formation of the Central Association, and since that date the actual number of persons convicted on indictment with *six or more* previous convictions has fallen by 80 per cent. In 1910, there were 1,066 prisoners convicted who had previously served a sentence of penal servitude, while in 1918 there were only 297. A great reduction has also taken place in the number of male convicts classified as Recidivist after reception into prison. Prior to 1911, the number frequently exceeded 900 annually, while in 1918 it was only 191.

The following tables show (a) the actual fall that has taken place in the numbers sentenced on indictment who had been previously convicted, and (b) the decrease in the number of male convicts classified as recidivist: -

(a)

Year	Total convicted on indictment	Number previously convicted		
		1—3 times	4—5 times	6 times & over
1910	11,317	3,954	1,215	3,828
1913	10,165	2,459	998	3,462
1918	4,694	1,153	287	786
Decrease per cent. since 1900		59	71	76
				80

(b) Classification of Male Convicts received into
Convict Prisons.

Year	Star, or First Offender.	Intermediate.	Recidivist.	Total.
Average for five years ended 1910—11	99	245	948	1,292
„ „ 1915—16	104	160	579	843
For year 1916—17	18	55	279	352
„ „ 1917—18	63	49	298	410
„ „ 1918—19	40	70	191	301
Decrease per cent. since 1910—11	60	71	80	77

CHAPTER XV.

THE MEDICAL SERVICE.

No account of the English Prison System would be complete without reference to the place and duty of the Medical Officer in the daily administration of a Prison. The English law requires that a Medical Officer shall be appointed to each prison. The appointment is made by the Secretary of State on the recommendation of the Prison Commissioners, and office is held subject to the approval of the Secretary of State. Great care is taken in selecting suitable men with high medical qualifications, and who are possessed of proved tact and discretion; a practical knowledge of insanity is also requisite. As the size of the prison varies very considerably, in the smaller prison the Medical Officer is generally a medical practitioner residing in the vicinity of the prison, who devotes a part only of his time to prison duties: at least one visit daily is required. In the larger prisons one or more medical men are appointed, whose whole time is at the service of the Commissioners, the senior appointments being filled by promotion from the junior rank. The prisons are frequently visited by a Medical Inspector who not only supervises and advises the Medical Officers, but forms a link with the whole of the Medical Staff, thus tending to standardize the medical work carried out in prisons. He is also available to visit and report on any individual prisoner when any difficulty arises necessitating special inquiry. He works under the Medical Commissioner, who represents the medical side of the service on the Prison Board, and deals with the administration of the Department.

The mere enumeration of his statutory duties reveals the great and varying responsibility imposed upon the Medical Officer:—examination on reception and discharge; visitation of the sick and those under punishment; the sanitary condition of the buildings; ventilation; food; water; clothing and bedding:—all these things are combined in

the daily round. He classifies prisoners for labour according to their physical fitness. He carefully notes the effect of imprisonment on the mental or physical state of prisoners, and advises when, in his opinion, life or reason is likely to be endangered by the continuance of imprisonment, and it is satisfactory to record that no abuse of this great responsibility has occurred since the prisons were taken over by the State in 1878. He takes under special observation any case where he has reason to suspect that the mental state is becoming impaired or enfeebled by imprisonment, and carefully notes any sign of incipient insanity. The health of the prison officers and their families, and the sanitary condition of their quarters are also his special concern.

It is a striking testimony to the skill and care with which these duties are performed that, with receptions in a normal year, we will say, of 200,000 persons, and with some 15,000 serious cases treated annually in hospital, of both sexes, and some 25,000 under continuous medical treatment for seven days or over, the death-rate in prison should be generally less than .50 per 1,000 receptions.

Our prisons have been described by a high medical authority as among the best sanatoria in England. This praise is well deserved, but it does not mean that illness is rare or only trivial, but that the skill, industry, and patience of the medical staff, operating in healthy sanitary conditions, equipped with modern knowledge and resource in dealing with the great variety of disease, which diagnosis on reception, or individual care during detention, reveals, is effective in maintaining a high standard of general health with a comparatively low death-rate, so far as prison conditions admit a comparison with the general death-rate of England and Wales.

For instance heart disease, pneumonia, and phthisis claim a regular roll of victims, though, in most cases, death would be due to chronic complaints in old, or prematurely old persons, with broken-down constitutions.

The incidence of infectious disease in prisons has, for some years past, been remarkably low. In a prison community, any illness of an infectious character is naturally viewed with great apprehension, and is always

made the subject of strict inquiry—the danger of infection being, of course, very great when so many persons are daily received and brought into association at chapel, exercise, labour, &c. Against this danger, the chief prophylactic must be in the exact and unerring skill of the Medical Officer, who is able to detect symptoms on reception which, unless detected, might spread an epidemic throughout the prison. Thus, at the time of the small-pox epidemic of 1902, it was due to the precautions taken that, with few exceptions, this highly infectious disease was prevented from spreading. When the epidemic of enteric fever raged at Lincoln in 1905, not a single case occurred in the prison, though prisoners were being received daily from various parts of the city. Erysipelas is disease which is not uncommon in prisons in the early days of imprisonment. Prisoners are not infrequently received with cut hands and other wounds in a neglected or septic condition, and with a probable predisposition to the disease arising from a weak or unhealthy physical condition. Isolation, and the usual precautions, however, generally prevent the disease, which has a tendency to recur, from spreading.

Deaths from phthisis average from ten to twenty a year. It is very rare indeed for the disease to manifest itself for the first time during imprisonment, but is already existing on reception, and more often than not in a far advanced condition. It had been observed that for the ten years ending 1901, there had been an average death-rate of 16·7 from this cause, and in that year, special instructions were issued for the segregation and special treatment of tubercular disease. Cases were to be treated in the most airy cells, with southern aspect, and special precautions taken with regard to the provision of spittoons, disinfection of clothing, utensils, fumigation of cells, &c. To carry out the spirit of these instructions necessarily entails much circumspection and good-will on the part of all concerned, both officers and patients. The effect of these regulations is not easy to discern in Local, or short-sentence, prisons, owing to the fugitive character of the population, but in convict, or long-sentence, prisons, where the conditions incident to

imprisonment are operative over a sufficiently long period, evidence may be found as to the measure of the effect of prison life on this particular disease. An inquiry made in 1906—7 shows that the death-rate from phthisis among males (cases very rarely occur among females) sentenced to penal servitude (*i.e.* not less than three years) was 1·38 per 1,000 of the daily average population. Previously to the regulations of 1901, the mortality was nearly double, amounting to 2·00 per 1,000. Since 1901, also, another cause has been operating towards a decline in the amount of tubercular disease, *i.e.*, the more generous prison dietary of that year, with an increase in the proportion of fatty elements.

Inquiries made at the time of the appointment of the Royal Commission to inquire into the prevalence of Venereal disease in 1913 showed that of the receptions into prison during the six months between November and April 1914, 64,023 males and 17,161 females were received into prison. Of the males 1·58 per cent., and of the females, 1·98 were found to be suffering from some form of venereal disease. Full advantage is taken of the modern methods of treatment, and practically at all the larger prisons there is a clinic. Where facilities do not exist in the smaller prisons, prisoners are treated at an outside clinic, or transferred to a prison where there is one.

Medical Officers also have very important duties and responsibilities in connection with the feeding of prisoners. Prison dietaries in this country have always been prescribed by Statute, but these definite prescriptions—what a prisoner shall eat and drink—are always subject to the moderating discretion of a Medical Officer. Formerly, the prison dietary was regarded as an element of penal discipline. Sir J. Graham, when Home Secretary, had repudiated this principle as long ago as 1843, but the Secretary of State of those days had no power to enforce his views on the local Justices, who gave effect to the popular idea that the ordinary prison diet might properly be regarded as an instrument of punishment. It must not be supposed, however, that the elimination of the penal element necessarily connotes an attractiveness of

prison fare. This is not the case; but the difficulties of framing a dietary which shall be sufficient and not more than sufficient, for the varying needs of many thousands of human beings of different ages and physique is admittedly very great.

The dietary of 1900 has, at least, removed one grave reproach against the system, *viz*:—that prisoners habitually, and almost invariably, lost weight. Under the old dietary, no less than 80 per cent. of prisoners engaged on hard labour for a month or less lost weight. The progressive improvement of dietary scale, proportioned to length of sentence, has been effective in mitigating the ill-effects arising from the application of the principle of punitive diet as a part of the sentence of imprisonment.

The skill and care of the medical staff would, however, be less positive in its results but for the sanitary condition of the interior of prisons, which has, for many years past, engaged the closest attention. Great improvements have taken place of late years in the construction of hospitals, and in the ventilation of halls and of cells, and in the reconstruction of drains on the most up-to-date lines. Formerly, the gas-lights, which are now in the corridors, were inside the cell—in many cases, naked lights,—an objectionable system from a sanitary point of view, and affording an easy means for mischief or self-destruction, while giving inadequate light for reading or working. It is not only with regard to artificial light that progress has been made. The opaque window glass excluding the light of day, and the hermetically closed window are now only memories of the past. All these things of late years have had the effect of improving the sanitary condition of prisons and the health of prisoners, and have, no doubt, contributed to the remarkable bill of health which our prisons present.

But it is not only with the physical state of prisoners and the sanitation of prisons that the medical staff is concerned. The prison Medical Officer has justly acquired a reputation as an expert in mental disease. Although a practical acquaintance with lunacy is expected of a candidate for the Medical Service, it is owing to the exceptional opportunities afforded for diagnosis of the

varying and often peculiar mental states of prisoners that he is expected, and is able, to give an expert opinion, not only in the grave cases where sanity is in question, but also in those difficult and doubtful cases of mental defectiveness which are continually occurring in every mode and degree. Especially is great importance attached to the opinion of the Medical Officer of prisons as that of an unbiassed expert witness on the mental condition of cases charged with a capital offence. The growing practice of the Courts to remand for medical observation in prisons when any doubt exists as to the state of mind, has the desired result of preventing the commitment to prison of persons who would be certified to be insane almost as soon as received. Thus, twenty years ago the number certified insane after reception into prison was a little over one per cent. of the total receptions. To-day it is about half that number.

It is, however, with regard to a class of prisoner, who, for want of a more precise and descriptive term, is designated "mental defective", that the Medical Officer is called upon to exercise all his vigilance and powers of diagnosis. There are persons who cannot be deemed sufficiently irresponsible as to warrant certification, but who, from obvious mental deficiency, cannot be considered fit subjects for penal discipline. In 1901, a special treatment was established for this class in local and in convict prisons. The effect of the new regulations was largely to increase the rôle and responsibility of Medical Officers in controlling the daily routine in respect of food, labour, and punishment. It was about this time that the question of the best method of dealing with mentally defective persons, other than those certified under the Lunacy and Idiots Acts, came prominently before the public, and a Royal Commission was appointed to inquire into the matter. At the same time, an attempt was made to ascertain the number of persons in prison who, on account of mental defect, were deemed unfit for ordinary penal discipline. Medical Officers were requested to note down for six months the number of persons received into their respective prisons who, in their opinion, were of such a low order of intelligence as

would be likely, by want of normal self-control, to get into mischief, or commit crime. The result was that 3 per cent. of both sexes of the total number of prisoners received were shown to fall within this category. Writing on this subject in 1912, Sir Herbert Smalley, until lately the Head of the Prison Medical Service, states:—

“The number of prisoners who are mentally defective is the subject of the very widest difference of opinion. There are some who would have us believe that all prisoners are mentally affected, in fact they urge that the mere fact of their committing crime is a proof of this. There are others, who, whilst not going this length, yet put the number at a very high figure. One well known writer recently alleged in the daily press that probably 40 per cent. of our criminals are mentally defective. A well known alienist writing to the “Times” some years ago stated that at least 20 per cent. of all police court cases belonged to the class of mental defectives. The Medical Investigators appointed by the Royal Commission for the care and control of the feeble-minded, after visiting several prisons and having seen some 2,553 prisoners, estimated the number as mentally defective at 10·28 per cent. This is again a higher rate than is generally returned by the prison authorities as the number of mentally defective persons amongst the prison population (irrespective of those certifiably insane who are obviously unfit to be at large), *viz.*, 3 per cent.

“Here at once is a wide divergence of opinion and the reason for the great discrepancy is that so much depends on the view that is taken as to the degree of mental deficiency which justifies an individual being regarded as “Feeble-minded.” There is no hard and fast line of demarcation, as has been asserted, between feeble-mindedness and sanity, any more than there is between a great many cases of insanity and sanity; from the normal down to the lowest idiot, or dement, it is only the question of degree of deficiency of mental power. This was pointed out by the Departmental Committee on Defective and Epileptic Children as far back as 1898.

“One of the Medical Investigators of the Royal Commission alleges that “the higher grade aments” are

sometimes not recognised by the prison authorities, who are apt to think a man who works well and behaves well in prison must be normal. There is some truth, no doubt, in this, for in prison there is strict and close supervision, there is the daily routine and the absence of "stress," "alcohol" and "temptation," to which people are subject in the outer world; moreover, in many cases, their time in prison is very short and their true mental condition is masked by the condition in which they are received (as, for instance, under the influence of drink and deprivation) so that the medical officer very naturally hesitates before reporting them feeble-minded."

The Mental Deficiency Act, 1913, came into operation on the 1st April 1914. It provides for three forms of supervision for defectives, viz:—State Institutions for defectives of dangerous or violent propensities, Certified Institutions, and Guardianship. The last named can be ignored in considering criminal defectives.

When the Act came into force there were no State Institutions, and the accommodation in Certified Institutions was totally inadequate to meet the needs of the situation. A State Institution was secured towards the end of 1914, but was almost immediately handed over to the War Office. Little, or nothing, could be done in the way of provision of further accommodation, State or otherwise, during the continuance of the Great War, and, as a result, very few criminal defectives could be dealt with. Since the termination of hostilities, a State Institution for male and female defectives has been established, and further institutional accommodation provided, and it is hoped that in the near future full provision will be made for dealing with all defectives, guilty of criminal offences, who are certifiable under the Act.

From 1st April 1914 to 31st March 1919, 871 cases were certified under the Act, the total receptions into local prisons for this period being 376,000, *i.e.*, 2·3 per 1,000 receptions. The prisoners certified in prison do not comprise the whole number of cases of criminal defectives dealt with, as Courts have power under the Act to send such defectives direct to Institutions, instead of to prison, and, as the working of the Act becomes more stabilised,

advantage is taken of this power to an increasing extent.

But even so, there is a considerable discrepancy between the defectives dealt with under the Act and the official ante-Act estimate, which was considerably greater, and this is mainly due to the strict requirement of the Act that the defect must have existed from birth or from early age. Here at once a large number of prisoners regarded as mentally defective, forming 30 per cent. of the whole, were excluded from the operation of the Act owing to the fact that the mental defect from which they were suffering, *e.g.*, senility, alcoholism, arose from causes operating later in life. Again, of the number of prisoners whose mental defect was regarded as of congenital origin, 77 per cent. were over 25 years of age, thus making it difficult to obtain proof of the existence of the defect from early age, without which a certificate cannot be given.

But the Mental Deficiency Act, limited as it is in its scope, and disappointing in its results, is a pioneer piece of legislation of considerable importance. Many Voluntary Associations and other bodies in this country interested in its administration are advocating an extension of its provisions, and I think we can anticipate with every confidence the time, to which the prison reformer has so long looked forward, when those unhappy persons, who through mental affliction drift inevitably into criminal courses, are removed from prison surroundings to the more appropriate atmosphere of institutions where they can remain under proper care and control.

The operation of the Mental Deficiency Act, 1913, and the discharge from Naval and Military Hospitals of numbers of men suffering from mental and physical disabilities arising out of the war, have accentuated the already growing interest shown by Justices, and others engaged in the administration of the Criminal Law, as to whether the means hitherto taken for dealing with persons committing offences are the best and most humane which could be adopted. The opinion has been growing in intensity for some years that mental and physical disabilities may largely contribute to the commission of crime, and that it is the duty of the community to investigate

thoroughly such causes, when they exist, to determine whether they are beyond the ability of the individual to control, whether they do not limit wholly, or in part, the responsibility for the commission of the offence, and to what extent they should be taken into account in determining the question of punishment: and whether some form of *treatment*, rather than *punishment*, by imprisonment, cannot be devised, which shall be more scientific, efficacious and humane.

The Justices of the City of Birmingham, early in 1919, took action and approached the Prison Commissioners in the matter and asked that a whole-time Medical Officer might be appointed to the Prison, and that portions of the hospitals, on both the male and female side, might be entirely partitioned off from the rest of the Prison and adapted for the reception of persons on remand whose mental condition appeared such as to require investigation.

Effect has been given to the recommendations of the Justices and, at the time of writing, the scheme has been in operation for some 12 months with valuable results. The Medical Officer of the Prison works in the closest co-operation with the Justices and no person, in whose case there is any suspected mental element, is sentenced to imprisonment until after full investigation of his condition of mind and all other avenues of dealing with the case have been exploited. The "Birmingham" experiment, as it is termed, has aroused great interest throughout the country and an extension to other centres, in a modified form, has already resulted.

The institution of the Borstal System has given a new and additional importance to the rôle of the Medical Officer, who plays an important part in the daily administration of these Institutions. From the medical point of view, the system commends itself more particularly by its insistence on the influences which promote sound physical development. Special inquiries made by the Medical Staff in 1903 and 1907 furnish positive proof of the physical inferiority of the adolescent criminal, 16—21, relatively to the free population, notably in height and weight. These inquiries furnish a striking argument in favour of the soundness of the

principles on which the Borstal System, as explained in a previous chapter, has been established.

The foregoing observations merely indicate generally the direction in which the manifold activities of the Medical Prison Service are exercised. I have laid stress on the part played in the discernment and investigation of mental disorder. That the question of guilt is identical with the question of mental soundness is a commonplace not only with those who seek to analyse by scientific inquiry the mysterious and subtle working of the human mind, but with those who, working in the name of humanity, are forced by personal observation, unaided by science, to the conclusion that many whom the law strikes are not fully responsible for their actions, and are not justly punished. In the United States of America, where science and humanity march hand-in-hand in exploring prisons and places of punishment, and in surveying the whole field of crime, we find that practical steps have been taken by the establishment of criminal laboratories, as at Chicago and Boston, to classify offenders, especially the young, according to the nature and degree of their mental capacity for distinguishing right from wrong. There is nothing so elaborate as this in England, but this is not because public opinion is not keenly alive to the importance of the medical aspect of cases, but because it would not be disposed to admit that the causes of a criminal act are discoverable by physical observation, or by the precise research of a criminal or clinical laboratory. It would be the duty, and the pride, of any civilized State to maintain a high standard of medical work in Prisons: it is a question whether the establishment of criminal laboratories does more than illustrate the practical benefits to be derived from good and thorough medical work in prisons, and whether experimental psychology, with its instruments of precision for testing the human mind, is a really effective auxiliary for the Court of Law in deciding guilt. It may be of value, as a supplementary aid to such diagnosis as a conscientious Medical Officer would apply, and it could be used as a means to support and justify opinion, but it cannot, by itself, be a substitute for other methods

of observation. Though public opinion in England is increasingly sensitive to degrees of responsibility, as affecting punishment of crime, it would be more disposed to place its faith in a medical man having experience of mental disease than in the conclusions drawn from the employment of the precise methods of experimental psychology alone. It is disposed to take the view expressed by no less an authority than Dr. Binet, which is to the effect that the complex phenomena of human action cannot be expressed in a few terse formulas,—*"c'est de la littérature: ce n'est pas de la science."* He inclines to the view that the essential characteristic of normal man is in the *direction* of choice. The want of direction is due to a disordered *moral* nature. Of this moral degeneracy little is known. The subjective valuation of the alienist cannot in practical life be the test of responsibility—the Judge, as representing 'common sense,' must decide.

At the same time, it recognizes the enormous value of preventive medicine in relation to the detection of mental disorder in its earliest stages. Sir George Newman, in his recent work "An Outline of the Practice of Preventive Medicine" lays great stress upon this point. He states: "Here, as elsewhere, we must seek to begin at the beginning. An understanding of eugenic principles and practice, a new aptitude and alertness in the physician, a new type of clinic, special hospital and institution—"early treatment centres"—a system of "voluntary boarders" in approved homes and institutions, a wider education of the public in what causes and constitutes mental incapacity, a larger apprehension of the meaning of self-control—all this is necessary if we would prevent mental disease. It is obvious that such a policy raises many questions of science, law and administration. But the experience of the war and of our colleagues in America (at the Phipps clinic at Baltimore and the psychiatric hospital at Boston) all points in one direction, namely, the practicability of establishing suitable psychiatric clinics in this country for dealing with early cases of mental and nervous disorder."

In order that the whole-time staff of the prison medical

service should be kept fully acquainted with modern developments in medicine and surgery, a system of "study-leave" was inaugurated in 1909, whereby a certain number each year take up a post-graduate course at the large hospitals. Special leave is allowed for the purpose, and the Commissioners pay the fees. Each officer chooses his own course of study, subject to the approval of the Medical Commissioner, due regard being paid to the special requirements of the prison service.

The nursing of sick prisoners is carried out by officers of the hospital staff, except in the smaller prisons where, for the present, outside nurses are engaged. The male officers are selected from candidates who have had nursing experience in the Royal Army Medical Corps or in Institutions, and they undergo a course of training in prison nursing and hospital duties at the invalid convict station at Parkhurst, Isle of Wight, before appointment to the hospital staff. As regards the female officers, these have, in the past, been officers trained in the larger female prison hospitals, but the question of securing more fully trained nurses for female prisons is now under consideration. With this object in view, a Voluntary Advisory Nursing Board has been established consisting, for the most part, of distinguished members of the medical and nursing professions to advise the Commissioners in formulating a scheme for a prison nursing scheme, and the Board will, it is hoped, be a useful auxiliary to the administration for this purpose in the future.

CHAPTER XVI.

A CRIMINOLOGICAL INQUIRY IN ENGLISH PRISONS.

AN attempt has lately been made in this country to apply scientific method to the study of criminal man. A vast amount of data relating to the personal condition, social estate, and penal histories of "convicts" (*i.e.*, men sentenced to penal servitude for three years and upwards) has been co-ordinated and amplified by physical measurements, by details of personal and family history, and by description of physical and mental qualities. An examination in respect of all or some of these points of 3,000 men, taken without selection from those undergoing penal servitude in English Convict Prisons, has formed the basis of this inquiry.

Of this large number of sets of observations, which were made by the Medical Officers of the Convict Prisons, Dr. Goring contributed considerably more than half, and to him was entrusted the onerous task of tabulating the material of the whole. With the assistance and advice of Professor Karl Pearson, Dr. Goring was enabled to carry out this work which he has achieved with remarkable patience and ability. The main intention of this investigation at the outset was to obtain accurate information whereby the many hypotheses advanced by different schools of criminology, and especially the Italian Schools, might be confirmed or refuted. But the scope of the work grew, perhaps inevitably, beyond its original purpose, and now includes not only an analysis of the physical and mental condition of convicts, but also many data for speculations on very difficult and contentious questions as to the relative influence of "heredity,"

“environment,” &c., on the genesis of ‘criminals’ generally.

Dr. Goring’s complete and elaborate Report, entitled “The English Convict—a Statistical Study,” has been published by the Government in an official Blue-Book. It appears now as Dr. Goring’s own work, carried out by a special method, and the conclusions arrived at are his own. I do not propose to attempt to criticise either his method or his conclusions, being aware that such an attempt would involve discussion of some matters on which there is much difference of scientific opinion.

This work is, as far as I know, the first essay made in any country to arrive at results on criminology by the strict application of what is known as the biometrical method of statistical treatment of recorded observations. Whatever its merits or demerits may be, it at least marks an epoch in the history of criminological studies. In the pages which follow, I endeavour to present in a more simple and popular form, and, as far as possible, in his own words, an abstract of Dr. Goring’s views, and of the results to which his general inquiry has led him. Students of Criminology must turn to the original volume itself for a detailed exposition of the whole case which the author so ably presents.

The postulate of the “Positive” School, with which the name of the celebrated Professor Lombroso will always be associated, is that crime or criminality is a morbid or pathological state akin to disease, or, in other words, an abnormal state, due to certain physical or mental defects, made manifest by certain stigmata or “*tares physiologiques*”—the result either of inherited defect or reversion to atavistic type, or in short, that there is “a criminal type” *i.e.*, a race of beings predestined to criminal acts, against whom any system of punishment would be futile, as by nature such beings would not be amenable to the deterrent influences of penal law. This theory—of which the logical result would be either elimination of the unfit, or the translation into the province of medicine of all legal procedure—has failed to command general assent or approval. Like all half-truths, it is extremely dangerous, for it is, of course, the

fact that morbid conditions are associated, to a certain degree, with crime, and, like all sensational dogmas, based on untested observation, it affected the public imagination, prone to believe that the criminal is a sort of "bogey-man"—the stealthy enemy of peaceful persons, ever ready to leap in the dark. This uneasy feeling encouraged the idea that the criminal was a class by himself—an abnormal being, the child of darkness, without pity and without shame, and with the predatory instincts of a wild beast. Thus gradually the common belief has taken root that there is a criminal type, and that it is persons of this particular brand or species who commit crime, and go to Prison. This belief is what Dr. Goring calls the great "superstition" of the day, which stands in the way of Prison reform, which darkens counsel in dealing with crime, which renders rehabilitation difficult, and which stifles and discourages the zeal of the philanthropist, to whom the "criminal" is a man of like passions with himself, and amenable to the same influences; and not predestined to crime and anti-social conduct, from which no human effort could save him.

The peculiarity of the Lombrosian doctrine was in the attempt made by it to "stamp a preconceived idea with the hall-mark of science; to support an *à priori* conception of 'abnormality' by an alleged scientific method of investigation;" but the methods of Lombroso were scientific only in name. He sought to solve those infinite and delicate relations which exist in all human or social conditions by *observation* alone. He brought much acumen, a great diligence, and imagination to the examination of the subject, but his field of observation was limited. If criminality were a morbid state, with signs comparable to those of disease, observation alone would suffice; but, in fact, there are no characteristics, physical or mental, peculiar to criminals, which are not shared by all people. It is common to speak of poverty, drink, neglect, &c., as the "causes" of crime; but such a causation can only be established by the statistical method of averaging large numbers, with the view of proving that the tendency to anti-social conduct

is, in fact, associated with the personal, economic, and social condition of an individual. "The science of statistics," says Dr. Goring, "is essentially a science of method; and, as applied to criminal man, it may be described as a system of methods whereby comparison, based on a strict anthropometrical survey of the different sets of individuals, may be effective in providing legitimate, simple, and intelligible description of the criminal, and of crime, and of the fundamental inter-relationships of criminality."

The author of the work approaches his inquiry with an open mind regarding the common *à priori* belief that all men are morally and mentally equal, in the absence of definite pathological cause. This belief is common to all ages. In early days, anti-social conduct was regarded as a sin against the light, *i.e.*, against the teaching of religion and the word of God. The punishment of crime was, therefore, an affair for the ecclesiastical tribunals. The distinction between sin and crime evolved but slowly, and the lay punishments of the Classical Schools were largely affected by the religious law. Later, the anti-social man was regarded as a pathological product—the victim of disease; and it is one of the fashions of to-day to regard him as 'a social product'—the victim of adverse social environment.

All these conceptions are regarded as due to a fixed conventional idea that there was a 'normal' man, who led a good life, and an 'abnormal' man who led a bad life, and this misconception is held to have stood in the way of a scientific view of the nature of criminal man. "Scientifically," according to Dr. Goring, "we can only divide men into 'normal' and 'abnormal' when there is some qualitative difference. 'Normal' is the outcome of the natural laws of existence. This becomes 'abnormal' only when supplanted by some pathological process. Normal never 'merges' into the abnormal, *e.g.*, the natural ranges of vesicular breathing, of normal temperature, of folly, and want of control, never merge into the morbid ranges of pneumonic breathing, fevers and madness. The qualities that have to be considered in relation to crime are not 'abnormal' qualities, but

qualities common to all humanity. Law-breakers are not a special breed of human beings differing *qualitatively* from those who keep the law: any difference there may be between these two human classes is of degree only and not of kind: and, similarly, law-breaking is not different in quality from all other forms of anti-social conduct for which men are not punished, even if they are found out: yet here again there is a vast range of difference in *degree*. And that is why statistical methods are necessary for the scientific study of the criminal. For only by measurement can difference of degree be evaluated; and statistics is merely a refined instrument for making measurements.

The word 'criminal,' strictly-speaking, only designates the fact that an individual has been imprisoned: that he has committed a crime. The object of this inquiry is to determine whether certain constitutional, as well as environmental, factors play a part in the production of the criminal act. It is impossible to state dogmatically *à priori* what these factors are, or which of them prevail in the determination of a given act, but it is lawful to assume from the phenomenon of crime that there is a hypothetical character of some kind, a constitutional proclivity, either mental, moral or physical, present, to a certain degree, in all individuals, but so potent in some as to determine for them the fate of imprisonment.

This hypothetical character which, in the absence of a better term, Dr. Goring provisionally calls "the criminal diathesis," is described as a "normal" character, possessed to some extent by all normal people whose differences are of degree only, and not of kind. It is a highly complex unanalysable character which, founded upon, and resulting from, a combination of qualities, some, perhaps inconceivably minute, is best described as a "make-up" comparable to the domesticated or wild "make-up" amongst animals, or to the human "make-up" whereby the sociable being is distinguished from the recluse. Nobody would suppose the gregarious tendency, or the impulse to lead a solitary existence, to be a simple primary quality—a so-called unit character—peculiar to the category it represents; and, similarly, criminality is not

a simple heritable entity—a primary instinct to evil, for instance, as Lombroso imagined it to be: it is rather a resultant quality springing from many social and anti-social tendencies, which together form the criminal or non-criminal “make-up” called the “criminal diathesis.” It is the degree to which a man is thus “made-up” as a criminal or non-criminal which determines eventually the fate of imprisonment: consequently, the intensity of criminal diathesis is measured by conviction or non-conviction, and by frequency of conviction for crime; and the main object of this inquiry has been to find out the extent to which this “criminal diathesis,” as measured by criminal records, is associated with environment, training, stock, and with the physical attributes of the criminal. To this examination, the “biometric” method, under the guidance of its distinguished exponent Professor Karl Pearson, has been applied.

Although only those gifted with high mathematical powers could have originated the minute and abstruse symbolical reasoning at the source of the methods whereby the inter-relationship of these phenomena have been measured and calculated, yet the application of these methods, and of the formulæ which have now been provided, are open to any intelligent worker who has knowledge of arithmetic and of simple mathematics, and the computer’s zeal for precision and accuracy. If the results do not command general acceptance, they are fruitful of new ideas, which, by further elaboration, may possibly furnish more light on the problem of crime, and may aid in the direction of administrative methods. At least they furnish an extraordinary example of what industry, and skill, and research, can accomplish in a domain where science, in the past, has asserted itself but slightly.

The question of the existence of a criminal type is regarded as essentially anthropometrical, *i.e.*, it can only be solved by the statistical analysis of a large series of measurements. Anthropometry has, of course, been used as an instrument by criminologists, but its strict application demands more than the crude contrast of mean values which is the most that has been hitherto attempted: in addition to the means, it insists that

probable errors should be also calculated and recorded; that a measure of the variability of each series of measurements should be obtained; and that, in every case, effects upon measurement due to differentiation in age, stature, intelligence, &c., of the contrasted populations under measurement should be also estimated and allowed for.

Having, by means of a comparison with regard to thirty-seven representative physical attributes of criminals, distinguished (1) by their conviction for different orders of crime, *e.g.*, thefts, assault, arson, sexual offences, and frauds, (2) by their frequency of reconviction, and (3) by the length of their imprisonment, established the conclusion that criminals are not physically differentiated because they are criminals, but because of difference in age, stature, intelligence, &c., our author proceeds to a comparison between statistics of criminals, as a class, and of the non-criminal public. The absence of any comparative data with regard to many of the physical characters of the law-abiding classes is, of course, fatal to any precise demonstration, but a comparison of the head-length, -breadth, -height, -index, and -circumference in convicts is made with similar statistics of a set of undergraduates of Oxford, Cambridge, and Aberdeen Universities, and of the London University College Staff, with the result that prison inmates, as a whole, approximate closer in head-measurement to the Universities generally than do students of different Universities conform with each other in this regard, and that from a knowledge only of an undergraduate's cephalic measurement, a better judgment could be given as to whether he were studying at an English or Scottish University, than a prediction could be made whether he would eventually become a University Professor, or a convicted felon.

Similar comparison with the general Hospital population and with soldiers (118 non-commissioned officers, and men of the Royal Engineers) establishes a similar conclusion that, so far as head-measurements are concerned, the criminal, and the hospital patient, and the soldier cannot be differentiated.

Next, comparison with some seventeenth century

skulls, recently discovered while excavations were being made in Whitechapel, leads to the interesting conclusion that there is a close agreement between correlation values obtained from measurements of English skulls 300 years old, and those calculated from the cephalic-diameters of English convicts alive to-day. And a detailed comparative analysis of head-length and -breadth statistics brings against a current theory, respecting the anomalous conformation of the criminal's head, the following fact: that amongst 200 criminals, the head of only one will be genuinely anomalous—a proportion less than has been found amongst Scottish insane people, and probably much the same as would be found in any section of the law-abiding healthy community.

Comparison with respect to hair and eye colour, nose conformation, deafness, left-handedness, tattooing, of such data as are available, illustrates the absence of any marked peculiarity in the case of criminals, and, lastly, a comparison of the head-contours of 800 convicts with those of 118 Royal Engineers, according to a plan invented by Professor Pearson for comparing skull-contours, demonstrates with great precision that, so far from criminals as a class being differentiated or stigmatized by low and receding foreheads, by projecting occiputs, by asymmetry, and by sugar-loaf, dome-shaped, and other peculiar forms of heads, the agreement between the contrasted types is so remarkable, and the differences so trifling, that at least in this respect no ground can be said to exist for the popular belief that criminal tendency can be inferred from the shape of a man's head. From all these comparisons, pursued strictly according to the biometric method of which I have only attempted to give the outline, Dr. Goring draws his conclusion that "no evidence has emerged confirming the existence of a physical criminal type, such as Lombroso and his disciples have described. The data show that physical differences exist between different kinds of criminals, precisely as they exist between different kinds of law-abiding people. But, when allowance is made for a certain range of probable variation, and when they are reduced to a common standard of age, stature, intelligence, class,

&c., these differences tend entirely to disappear. The results nowhere confirm the evidence, nor justify the allegations, of criminal anthropologists. They challenge their evidence at almost every point. In fact, both with regard to measurements and the presence of physical anomalies in criminals, the statistics present a startling conformity with similar statistics of the law-abiding classes. The final conclusion we are bound to accept until further evidence, in the train of long series of statistics, may compel us to reject or to modify an apparent certainty—our inevitable conclusion must be that *there is no such thing as a physical criminal type.*”

But although no physical type peculiar to criminals can be demonstrated, certain physical differences in criminals have emerged, and it is in the examination of these differences that Dr. Goring attempts to establish a theory of criminality more simple and reasonable than that which refers them to the presence of a definite criminal type. From a comparison of the stature and weight of the general population, published in 1882 by the British Association for the Advancement of Science, he shows that, (apart from differences due to class differentiation,) in physique, as measured by stature and weight, criminals, with the exception of those convicted of fraud, are markedly differentiated from the non-criminal sections of the community. This physical inferiority, however, must not be associated with any condition of degeneracy, atavism, or other defect, mental or physical, originating spontaneously, but all the evidence points to the truth of the theory that these bodily conditions are “selective factors” determining, to some extent, conviction for crime. It may be imagined that as good physique determines occupation, so a bad physique predisposes to a criminal career. It also facilitates arrest by the Police, and apprehensions are considerably fewer than offences committed. It is, too, generally observed that persons of good physique are less irascible and prone to violence, and the case of the incendiary would show that a weakly man has recourse to a mean act from motives of revenge, not being capable of an act requiring physical force. “Fraudulents,” it is true, are not selected

for crime, for they resemble, in weight and stature, the law-abiding public; but they are an exceptional case, which, while destructive of a theory of degeneracy, is not necessarily inimical to the theory that physique selects crime. Dr. Goring does not deny that there is a possibility that this physical inferiority may tend to become an inbred characteristic of the criminal classes, the convicted fathers having sons who inherit their diminutive stature, and thus, in course of time, an inbred differentiation of the criminal classes might result. That this may be so is illustrated by statistics, which show that industrial and reformatory school children are consistently on the average one inch shorter in stature, and several pounds less in weight, than any other class of school-children of the same age in the United Kingdom. Nothing more than this can be conceded to the Lombrosian School. The only fact at the basis of criminal anthropology is that thieves, and burglars, and incendiaries (*i.e.*, about 90 per cent. of all criminals) are markedly differentiated from the general population in stature and body-weight. There is no other scientific foundation than this for the extravagant doctrines of the "Positive" School.

It is also held by Dr. Goring that there is no such thing as a "mental criminal type." It is not denied that marked unlikeness of mental characters exists between criminal groups, as it does between different sections of the law-abiding community; but the point emphasised is that this unlikeness is associated not with a differentiation in criminal tendency, but with the criminal's differentiation in general intelligence or mental capacity, which, according to the nature of his crime, varies enormously: *e.g.*, the percentage of actual mental defectives convicted of stack-firing is 53, of rape 16, of stealing 11, of manslaughter 5, whereas amongst persons convicted of embezzlement, forgery, and other forms of fraud, the percentage is practically zero. The recent Commission on the Care and Control of the Feeble-minded, from an enumeration of defectives in sixteen representative districts of the British Isles, estimated that 46 per cent. of the whole population of England and Wales are mentally defective; a similar enumeration in prisons, casual wards,

shelters, etc., revealed 10·28 per cent. of mental defects. Dr. Goring contends that it is clear from this that criminals, as well as showing wide differences amongst themselves, are also, as a class, highly differentiated in mental capacity from the law-abiding classes. Mental defectives, it is argued, unlike the insane and pathological imbeciles, are not a special class of human beings, and they are chiefly distinguished from other normal persons by their low level of general intelligence. The term mental deficiency, as applied to convicts, as well as connoting a mind of inferior capacity, in many cases implies also an unbalanced mind, *i.e.*, a mind whose equilibrium is easily disturbed by the preponderance of extreme degrees of objectionable and dangerous qualities, such as impulsiveness, excitability, passionate temper, &c. These qualities are held to be not "morbid" but "natural," being shared in some degree by persons of all mental grades. The measure of general intelligence among criminals bears also a striking relation to their occupational class. Thus, if we examine, say, 1,000 cases of conviction for crime, we should find that the percentage of mentally defective criminals varied from 6 to 35, accordingly as the offender belonged to the professional, commercial, artisan, or labouring class,—the actual percentages for all crime in each class being 6, 15, 26, and 35, respectively. Probably, in the opinion of Dr. Goring, the chief source of the high relationship between weak-mindedness and crime resides in the fact that the criminal thing, which we call "criminality," and which leads to the perpetration of many, if not most, anti-social offences to-day, is not *inherent wickedness*, but natural stupidity. The striking characteristic of 90 per cent. of offences is their incredible stupidity, and, moreover, it is probable that the commonly alleged causes of crime, such as alcoholism and epilepsy, are not more than accidental associations with crime, themselves depending upon the high degree of relationship which is admitted to exist between defective intelligence and crime.

So far then, the conclusion is that English criminals are selected by a physical condition and by a mental constitution which are independent of each other: that

the one significant physical association with criminality is a generally defective physique, and that the one vital, mental constitutional factor in the etiology of crime is defective intelligence.

The question of the respective influence of heredity and environment is next considered by Dr Goring. The family histories of 1,500 convicts are examined, and two important relations are demonstrated (1) that the percentage of criminal offspring increases progressively according to whether neither parents, the mother only, the father only, or both parents are criminal: (2) that the percentage of criminal offspring becomes steadily greater as the age of the children increases from 14 to 23. With regard to age, the interesting fact results that the mean age of criminal enlistment is 22, with a deviation of nine years; and 14 to 32 may be regarded as the age when the chance of inherited criminal disposition is most likely to reveal itself—the modal age at first conviction is about 19.

It appears also that the probabilities of conviction are greatly increased when a brother has been convicted, and the greatest intensity of the fraternal, as well as of the paternal association, occurs in families tainted by the crimes of stealing and burglary, *i.e.*, the taint of habitual and professional criminality. But though the tendency for crime to recur in families already criminally tainted is an indisputable statistical fact, it is not in itself a fact of heredity. It may be due to contagion within the corrupted home into which a criminal is born. The solution of the question as to which of the two influences, heredity or contagion, is predominant, cannot be determined by observation alone—there are numberless instances pointing one way or the other—it can only be determined by a statistical examination of family statistics, where the possible influence of each factor has been eliminated. The high degree of association between criminality in husband and wife would, at first sight, seem to furnish proof of the influence of contagion, it being a relation where heredity can be eliminated, but when it can be shown that every other married female criminal is the wife of a criminal husband, and that four out of every

five alcoholic wives have alcoholic husbands, the theory of contagion gives way to a theory of 'associative or selective' mating among criminals, due to the universal tendency prevailing in every department of life, of like to mate with like. So again, if we eliminate contagion, *i.e.*, if we examine crimes in the perpetration of which parental example would not play an important part, such as arson, damage, or sexual offences, the parental correlation is found to be greater than in stealing or burglary, when the influence of parental example would be likely to have most effect. The result arrived at is that the criminal diathesis, revealed by the tendency to be convicted and imprisoned for crime, is inherited at much the same rate as are other physical and mental qualities and pathological conditions in man, and that the influence of parental contagion is, on the whole, inconsiderable, relatively to the influence of inheritance, and of mental defectiveness, which are by far the most significant factors discovered in the etiology of crime.

Other environmental factors which are commonly alleged as the 'causes' of crime, *e.g.*, illiteracy, alcoholism, poverty, etc., are examined statistically, so far as the data at the disposal of the author furnish ground for valid scientific conclusion.

These alleged causes are, in reality, nothing more than the co-existence of associated phenomena, and until such association is analysed by statistical methods, causation, in the strict scientific sense, cannot be demonstrated. Thus, to take a general instance: poverty and illiteracy are often described as the 'causes' of crime, but as more than a third of the population of Great Britain belongs to the class of general labourers, who are presumably both poor and illiterate, such a statement can mean no more than that there is a more frequent association of criminal acts with persons living on a low rather than on a high economic scale. The exact numerical measure of the association can only be obtained by elaborate statistical comparison, the data for which are not in existence.

As a matter of fact, a statistical comparison of the penal records of convicts reveals the startling fact that if there be any relation between a convict's education and

the frequency of his convictions for crime, it is that those who have received no schooling are the least frequently convicted, and that the worst penal records are of those who have passed through reformatory and industrial schools. Again, if we take alcoholism—it is the fact that deaths from alcoholism are twice as frequent among prisoners as in the general population (26 per 1,000 as against 12 per 1,000), from which it might be inferred that alcoholism is specially associated with the committing of crime. But the incidence of two statistical facts does not, of itself, determine which of the two is antecedent to the other. Does the alcoholic tend to become criminal, or the criminal tend to become alcoholic? Or is the relation of alcoholism to crime due to the fact that both have a common antecedent in defective intelligence? The employment of the correlative tables would seem to point conclusively to the fact that this antecedent is defective intelligence. If a comparison is made of the mean degrees of intelligence of alcoholic and temperate convicts, it appears that there is a pronounced differentiation of intelligence in favour of the latter, and that the mental grade of alcoholic convicts is lower by a half than that of alcoholics in the general population. Apart from offences connected with personal violence, where there is a direct association with inebriety, alcoholism cannot strictly be regarded as a cause of crime, and the general conclusion would seem to be that adverse environment is related much more intimately to the intelligence of convicts than it is to the nature of their crimes, or to the degree of their recidivism. Again, if we examine the relation of occupation to criminality, it appears that crime is related much more closely to the opportunity which a particular occupation offers than to the economic scale of living which it suggests: thus, sailors, miners, and labourers are relatively free from association with the acquisitive offences, for which, from the special facilities afforded by their occupation, clerks, shop-keepers, and persons engaged in commerce are disproportionately selected; and this proclivity to fraud in all its forms is distributed equally through all these classes, the professional and the upper classes providing nearly their propor-

tional share of thieves. Four per cent. of persons in the general population belong to the professional classes: the number of convicted thieves belonging to this class is three per cent. As ninety-five per cent. of all offences are of an acquisitive kind, it is difficult to sustain the point that poverty is a cause of crime.

Dr. Goring is led to the conclusion that there is not any significant relationship between crime and what are popularly believed to be its "causes", and that crime is only to a trifling extent the product of social inequalities or adverse environment, and that there are no physical, mental, or moral characteristics peculiar to the inmates of English Prisons: that one of the principal determinants of crime is "mental defectiveness," and as this is a heritable condition, the genesis of crime must to this extent be influenced by heredity.

Putting aside the part played by the different circumstances affecting criminal man, biologically and otherwise, and without subscribing to the different views and doctrines which, in the opinion of the author, result from the inquiry, the broad and general truth which appears from this mass of figures and calculations is that the "criminal" man is, to a large extent, a "defective" man, either physically or mentally, or, is unable to acquire the complex characters which are essential to the average man and so is prone to follow the line of least resistance. This truth may not be new or startling. It is advanced now by Dr. Goring as a truth which is scientifically demonstrable and so commanding respect and possessing a value which would not belong to statements based on purely empirical observation. This result may be regarded as modest and even disproportionate to the labour involved, but it is worthy of attainment, for much is gained everywhere and especially in the realm of penology, when definite ideas as to the nature of the problems dealt with are substituted for vague notions, or even illusions, as to the nature of the criminal: notions which, in the absence of detached and scientific inquiry, undertaken, as this has been, from a single-minded desire to search out what is true, may have their origin in two quite contrary sources, *viz.*: an undue pity for the

offender or an undue desire to be revenged on him.

Quite apart from general incapacity to live up to the required social level which brings them within the meshes of the criminal law, Dr. Goring even suggests that the physical aptitude of evading the police may affect statistics, and the fact is that the weaker and not the stronger man is "run in," although the "criminal diathesis" may be equally strong in each. In any case his conclusion on this point is very emphatic, *viz.* : that English criminals are selected by their physical condition, and that the one significant physical association with criminality is a generally defective physique; and that the one vital mental constitutional factor in the etiology of crime is defective intelligence.

This general theory of defectiveness as a general attribute of criminality may be regarded by some as confirmed by the fact that persons convicted of crime are mainly drawn from the lowest social scale; and it is plausible to infer that physical and mental inferiority is allied to a low economic scale of living. This theory, however, must not be pressed so far as to affect the liability to punishment of the offender for his act. Penal law is, through its prohibitions, the expression of the social standard of life in the country. Where that standard is high, there must be a residuum of individuals whose mental and physical state does not enable them to live up to that standard. They fall below it through constitutional incapacity, which manifests itself in weakness of will and power of resistance. This inquiry goes to show that it may be predicated that with regard to the great mass of offenders coming within the meshes of the criminal law, this *defectiveness*, in its economic sense, is a predisposing cause, and has no necessary relation to definite physical or mental disease. It is a relative term only, relative to a high standard of social requirement to maintain which the law exists. Penal law, wisely and humanely administered, as in a highly civilized State, should apply its sanctions only with regard to the varying characters and capacities of those who come before the Courts. In other words, punishment must be individualized. The tendency towards the individualization of

punishment is making marked progress in all the countries of the world, and nowhere more than in this country. In addition to the absolute discretion vested in the Courts and Tribunals, there is a careful classification for purposes of prison treatment, the object of which is to adapt, as far as practicable, the nature of the punishment to the character and antecedents of the offender. Although, therefore, the fact brought out by the inquiry that, on the average, the English prisoner is defective in physique and mental capacity, would seem to call in question the whole responsibility of any person guilty of an anti-social act, yet, if fully and properly understood, it does not mean more than that in a perfect world where the faculties of each would be fully and highly developed, the problem of punishment would not exist; and it would be a cause of rejoicing if the crime of the country could be demonstrated by statistical methods to be the result, not of a general perversity pervading all classes, but a tendency only on the part of persons living on a low economic scale to fail, on account of physical or mental defectiveness, to conform to the restraints of the criminal law. I regard this as a fair and reasonable explanation of crime generally in this country. It is, at least, an explanation which must fortify and stimulate all those who desire that there shall be fewer persons suffering from those incapacities which predispose to crime, or that, where incapacity is obvious and can be defined, special steps shall be taken not to expose such a person without care or oversight to the conditions of free life, which are likely to be not only ruinous to himself, but dangerous to the community.

It is satisfactory to note that incidentally to its general purpose, the inquiry (1) confirms the idea to which practical effect has been given in recent years by the institution of the Borstal system that the effective way of dealing with crime is to attack those between the ages of 16 and 21, which is shown to be the probable age for enlistment in the criminal brigade, (2) it demonstrates by statistical method that imprisonment does not have the adverse physical and mental results which are often alleged, (3) it confirms the opinion held of the necessity

for better care being needed for the mental defective, and (4) it shows that it is by consideration of the individual men and women who make up the criminal population that the best solution of the criminal problem is to be found.

Those who agree with the opinion of Dr. Goring that the principal determinant in crime is mental deficiency will be encouraged by the passing of the Mental Deficiency Act, 1913, in the belief that this important measure constitutes a great step forward in the rational and scientific treatment of the criminal problem.

However much opinion may differ as to the exact proportion borne by heredity and environment, respectively, in the formation of the criminal character, whether any or no predominant part can be ascribed, as by Dr. Goring, to mental defectiveness, the fact remains and is known to all those concerned in the administration of prisons and in the actual treatment of crime, that a considerable number of adult persons in custody cannot be regarded as fully capable of dealing with the ordinary affairs of life. The provision, therefore, that has now been made for the detection and diagnosis of all forms of mental defectiveness from childhood and early youth justifies a general hope and belief that if this Act is effectively administered, a great impression will, in course of time, be made on the figures of imprisonment; and this hope can be held not only by those who take an extreme view of the influence of heredity, but by plain men and women, without scientific training or knowledge, who are now profoundly moved at the sight of persons of both sexes and of all ages coming to prison in the expiation of offences which, had they been mentally conscious of their obligations to society, or adaptable to their social environment and standard of living, they never would have committed.

CHAPTER XVII.

A SHORT SKETCH OF THE MOVEMENT OF CRIME—

(A) 1872 to 1914: (B) THE WAR, 1914 to 1918.

The object of this Chapter is (a) to compare the number and character of offences according to recent statistics with statistics obtainable at the time of the London Congress, 1872; and (b) to show the great change that has taken place in the volume of crime due to causes consequent upon conditions of War.

(A) 1872 to 1914.

Serious offences (e.g. murder, wounding, sexual offences, burglary and fraud), tried at Assizes and Quarter Sessions, decreased between 1872 and 1913 by nearly a half, relatively to population, as will be seen from the following Table of the number of offences dealt with by the Courts for quinquennial periods 1873 to 1913:—

Period	Number proceeded against	Ratio per 100,000 of the population.
1873-77	15,298	63·62
1883-87	13,908	51·09
1893-97	11,632	38·20
1903-07	12,344	36·32
1908-12	13,558	37·88
1913	12,511	33·89

2. Less serious offences, which, though triable by Superior Courts, can be dealt with summarily, i.e., principally acts of petty larceny, have increased during the same period, though relatively to population there has been a decrease, as the following Table shows; but it must be remembered that a large proportion of these offences are those committed by children or 'young persons,' coming within the provisions of the Children Act, 1908. Nearly 40 per cent., according to latest figures, belong to this category, and over 60 per cent. of charges were either dismissed or dealt with otherwise than by conviction:—

Period	Number proceeded against	Ratio per 100,000 of the population
1873-77	37,245	154·90
1883-87	43,936	161·41
1893-97	41,542	136·42
1903-07	47,721	140·40
1908-12	52,743	147·36
1913	50,758	137·48

3. There is a third category of offences, which, though only triable in Summary Courts, are 'criminal' in character, e.g., assaults, damage, &c. As will be seen from the following Table, there has been, generally speaking, a fall since 1872 of considerably more than a half, the number of offences per 100,000 of population having decreased for the period 1873 to 1913 from 567 to 192.

OFFENCE.	QUINQUENNIAL AVERAGES.					YEAR 1913
	1873-77	1883-87	1893-97	1903-07	1908-12	
Assaults, Malicious Damage, Unlawful Possession &c. }	136,390	116,836	108,298	85,193	75,212	71,124
Ratio per 100,000 of population	567·22	429·22	355·64	250·65	210·14	192·65

These three categories include all offences which are strictly 'criminal' in character. The great bulk of offences, which may involve commitment to Prison, are not strictly 'criminal.' The principal offences in this category are Drunkenness, Offences against Police Regulations, Bye-laws, Highways Acts and Education Acts. The following Table shows that the actual number of these offences rose continuously from 1873 to 1907. Between the latter date and 1913 there was a fall in the actual numbers, and relatively to population, the figure for 1913 (1649·99) showing a decrease of no less than 157·51 per 100,000 of the population, as compared with 1873-7 :—

OFFENCE.	Quinquennial Averages.					Year 1913
	1873-77	1883-87	1893-97	1903-07	1908-12	
Drunkenness	195,682	180,462	179,496	219,675	188,813	204,038
Education Acts, offences against. ..	18,320	80,566	64,924	56,117	40,763	44,030
Highway Acts ,, ,,	16,743	18,847	30,677	47,313	62,405	76,011
Police Regulations, Bye-laws, breach of ..	59,393	62,028	88,848	131,600	100,842	106,509
Vagrancy	15,193	26,694	25,228	34,857	41,267	27,523
Total non-criminal offences.	434,620	496,341	534,844	630,474	578,486	609,166
Ratio per 100,000 of population	1807·50	1823·39	1756·38	1854·94	1616·25	1649·99

The following Table is interesting in showing the committals to prison for the last three decades, commencing in 1881—the earliest date from which the comparison is possible. It will be observed that the Prison population in 1883 stood as high as 622 per 100,000 of the population of the country, and that for the year ended 31st March, 1914 it had fallen to the lowest then recorded, viz:—369. The great decrease that has taken place since 1914, as will be shown subsequently, reduced the ratio to 70 per 100,000 of the population :—

Year ended 31st March.	Convicted of Indictable Offences tried at Assizes and Sessions.	Convicted of Offences tried summarily.		Total. Committals on Conviction.	Per 100,000 of population of the Country.
		Indictable.	Non-Indictable.		
1881	9,528	139,546		149,074	580
1882	10,550	150,888		161,438	621
1883	10,069	153,645		163,714	622
1884	9,780	151,056		160,836	604
1885	9,886	150,096		159,982	594
1886	9,617	138,015		147,632	542
1887	9,611	144,989		154,600	562
1888	9,024	138,755		147,779	531
1889	9,198	144,765		153,963	547
1890	8,180	137,088		145,268	511
1891	7,843	132,789		140,632	490
1892	8,302	128,958		137,260	473
1893	8,542	136,996		145,538	495
1894	8,590	147,876		156,466	526
1895	7,991	139,836		147,827	492
1896	7,933	146,019		153,952	506
1897	7,386	140,727		148,113	482
1898	8,004	145,961		153,965	496
1899	8,315	151,744		160,059	510
1900	7,194	146,266		153,460	483
1901	7,091	141,509		148,600	461
1902	7,764	159,232		166,996	513
1903	8,271	168,286		176,557	535
1904	8,640	21,730	159,518	189,888	569
1905	8,761	21,784	167,396	197,941	586
1906	8,972	21,890	164,194	195,056	571
1907	8,966	20,272	149,105	178,343	516
1908	9,091	20,886	146,625	176,602	505
1909	9,613	21,710	153,578	184,901	523
1910	9,500	21,381	149,080	179,961	503
1911	9,136	18,758	139,801	167,695	465
1912	8,756	17,668	132,443	158,867	439
1913	8,781	17,102	125,081	150,964	413
1914	7,738	15,598	113,088	136,424	369

For many years past, a marked decrease has taken place in the number of persons sentenced to penal servitude. In 1872, there was a convict population of 8,823 males and 1,249 females. This had fallen to 2,568 males and 98 females at the end of 1913-14, representing a decrease of over 70 per cent. As will be seen from

the following Table, the average length of sentence has also fallen considerably :—

Sentence.	Sentences of convicts in custody on the last day of each of the following years—			
	1872	1891-2	1902-3	1913-14
Life.....	152	268	138	128
Above 15 years.....	101	177	64	38
15 years and over 10 years....	308	332	166	73
10 years and over 5 years.....	7,898	1,498	581	343
5 years and over 3 years.....	1,613	1,726	1,141	830
3 years.....	—	28	819	1,254
Total.....	10,072	4,029	2,909	2,666

The most gratifying feature shown by the comparison of statistics prior to 1914 is the wonderful decrease in the number of convictions under 21 years of age. These figures can be traced as far back as 1848 :—

Year	Under 12		12 and Under 16		16 and Under 21	
	M.	F.	M.	F.	M.	F.
1848..	1,332	215	10,537	1,718	21,324	6,307
1856..	1,674	316	10,134	1,857	17,655	7,231
1866..	1,485	152	6,614	1,105	18,480	6,147
1873..	1,370	112	6,692	1,185	19,992	7,033
1876..	940	58	5,292	848	20,356	6,572
1886..	229	21	4,016	547	19,813	5,143
1896..	59	1	1,336	102	13,433	2,924
1906..	3	—	999	30	15,878	2,248
1910..	1	—	139	3	12,236	1,186
1911..	—	—	32	2	10,380	1,163
1912..	—	—	22	1	8,265	938
1913..	—	—	27	5	7,789	900
1914..	—	—	12	—	6,320	858

It will be seen that the category (16—21) has fallen from 13,433 males in 1896 to 6,320 in 1913—14. In the 'seventies it represented 1,306 per 100,000 of the population of the country of that particular age, and since that time the ratio has fallen as shown below :—

1883	1,164	per 100,000 of population 16-21
1893	728	” ” ”
1903	499	” ” ”
1914	212	” ” ”

The following Table is interesting as showing the higher average age of the prison population in 1913—14 as compared with ten years before that date, indicating the fact that the supply of younger recruits is failing :—

	Age on conviction, and the Proportion Per Cent. which each Category bears to the Total.					
	Under 21	21 to 30	30 to 40	40 to 50	50 to 60	60 and over
Males—						
1902-3.....	11·6	26·7	26·9	18·2	8·1	8·2
1913-14....	6·1	24·8	28·8	21·3	10·0	9·0
Females—						
1902-3.....	4·8	25·3	35·0	22·6	7·8	4·3
1913-14....	2·5	18·4	34·1	29·1	11·3	4·4

As described in a foregoing Chapter, it was about the time of the year first-named in the above Table that the Borstal System was inaugurated, and to its operation (both "Full" and "Modified" Systems) the decline in the rates of the first two columns is doubtless largely due. Shortly before the outbreak of War, the Borstal Association furnished remarkable figures showing that, since the Borstal System was made statutory in 1909, only 392, out of 1,454 lads, or 27 per cent., discharged from Borstal Institutions during that period had been reconvicted. Bearing in mind that all these lads had qualified for Borstal detention as being "of criminal habits or tendencies," it is not surprising to find that the successful efforts of the Association, and of those of Borstal Committees in Local Prisons, are resulting in a decreasing number not only of the age with which they are directly concerned, 16—21, but with the following one (21—30), which has hitherto contributed some 30,000 cases annually.

But while the statistics of 1913 showed a decrease in the volume of serious crime, and a falling-off both in the total number committed to prison for these as well as for less serious offences, (and of those so committed a decreased proportion of young and first offenders) there remained both in Local and Convict Prisons a large body of reconvicted men and women. Thus, in Local Prisons, the percentage of reconviction stood at 61 and 77 for

men and women, respectively : while in Convict Prisons, presumably for more serious offences, the percentage was 87 and 67 respectively. But this high figure, taken in conjunction with the falling prison population and the decreased number of young and first offenders shows conclusively that recidivism in both cases is being localized, and that, in course of time, (if even at this late stage the many agencies now operating fail to reform) this large body of men and women will disappear from criminal statistics, leaving a reduced number to take their place. So far as penal servitude prisoners are concerned, their number is relatively small. An inquiry made in 1910 into the careers of ex-convicts showed the rate of reconviction to be about 70 per cent. Since that date the Central Association for the Aid of Discharged Convicts has been established, and they were able to report in 1915 concerning nearly 2,800 men, largely Recidivist convicts, the majority of whom had been at liberty for more than two years, that only 50 per cent. had been reconvicted.

With regard to petty recidivism in Local Prisons, the number, prior to the great reduction since 1914, was largely composed of persons of vagrant habit : many, too, were mentally defective. As an example, it was found at a particular prison that out of 700 vagrants received in a year, 236 served from two to seven imprisonments during the year, and that the total previous convictions of these 236 men amounted to considerably over 2,000 : while 92 reported in one year at another prison as being of feeble mind had together amassed a total of 1,270 convictions. Although the total of the latter category has diminished, recent statistics show that the proportion of mentally defective in the prison population remains about the same. So far as these are concerned, it had been hoped that when the Mental Deficiency Act, 1913, was brought fully into operation, the Prisons would have been purged of this class, who are unfitted for prison discipline ; but these hopes remain to a large extent unfulfilled, chiefly owing to difficulties arising out of the War in finding accommodation for defective persons. Should legislation proceed on the lines of the recommendations of the Vagrancy Committee of 1906,

and should restriction on the sale of intoxicating liquor still be enforced, there is little doubt that the high rate of petty recidivism in Local Prisons will be permanently reduced.

(B) THE RESULT OF THE WAR.

The European War broke out in August, 1914, and it is the purpose of the following pages to show, as far as possible, the effect of the many changes brought about by the social upheaval consequent upon war-time conditions and legislation upon the crime of the country.

As will be seen from the following Table, the daily average Local prison population has fallen enormously since 1913-14—52 per cent. in the case of males and 40 per cent. in the case of females. But as regards the number of males committed by *Ordinary Courts*, the fall in the average population is much greater, for included in the daily average population shown below is an average probably not far below 2,000 prisoners committed by Courts Martial, the larger number of whom were cases of men, who, having failed to obtain from local tribunals exemption on the ground of conscientious objection under the Military Service Acts, were ultimately committed to prison for breach of military discipline. Further, there are also included many cases charged under the Defence of the Realm &c. Acts. Excluding all these, the daily average male population in 1918-19 had fallen by over 60 per cent. of the number at which it stood in the year before the War. A fall of over one-half is also shown in the male average population of Convict Prisons:—

	Daily Average Population of					
	Local Prisons		Convict Prisons		Borstal Institutions	
	M.	F.	M.	F.	M.	F.
1913-14	12,116	2,236	2,609	95	841	87
1918-19	5,751	1,322	1,146	83	566	194

This great fall in the prison population is still more strikingly shown in the Table showing the total commit-

tals to prison on conviction by Ordinary Courts for the years named:—

Year.	Committals to Prison on Conviction.				Proportion per 100,000 of the Population
	On Indictment	Indictable Offences Tried Summarily	Non- indictable Offences	Total	
1913-14	7,738	15,598	113,088	136,424	369
1918-19	3,486	8,568	13,996	26,050	70
Decrease since 1913-14	55 %.	45 %.	88 %.	81 %.	299

This great fall in the numbers committed must, of course, be attributed to a great extent, to conditions arising out of a state of war: but, at the same time, it must be borne in mind, as shown above, that a decrease in grave, as well as in the less serious, forms of crime, had been proceeding for some years before the war. The general call upon the manhood of the nation for service with the Forces: the endless opportunities for employment for those who, in ordinary times, would probably not be eligible for want of necessary qualifications—to which must be added the intense spirit of patriotism pervading all classes, leading men and women to abstain from evil—have, no doubt, been chiefly responsible for so few persons coming to prison. But the War alone, or the spirit engendered by the War, cannot be said to have been the sole cause of this great fall. In the first year of the War, the Criminal Justice Administration Act, 1914, came into operation, which provided new facilities for the payment of fines; and, whereas before the operation of this Act between 75,000 and 100,000 persons had been committed annually in default, the number so committed in 1918-19 had fallen to about 5,300 only. This low number is probably to be accounted for by the high wages prevalent, thus affording means to pay the fines imposed. As a result of this, the total number of short sentences fell enormously. Before the War, and the passing of the Act of 1914,

there had been nearly 100,000 sentences annually to two weeks or less, while in 1918-19, only 4,000 were received for those terms.

As regards the actual offences which have contributed to this decrease during the War,—amongst grave crime, the offences of Burglary and Housebreaking showed the greatest fall, viz:—57 per cent., the numbers having been 1,960 in 1913-14, and 840 in 1918-19. Larcenies, including the less serious cases dealt with summarily, fell from 22,459 in the first-named year to 8,915 in the latter year, or 60 per cent. (A large increase in the case of Bigamy was noted,—the number which had averaged about 80 per annum before the War, had risen to 420 in 1918-19). Cases punishable by fine fell greatly, and amongst these was the offence of Drunkenness: 51,851 persons were received on conviction in 1913-14 and only 1,670 in 1918-19, a fall of 97 per cent., the number for the latter year probably representing largely the cases which were committed without the option of a fine. Assaults also fell from 8,666 in 1913-14 to 1,269 in 1918-19, or 85 per cent., and offences against Police Regulations from 8,661 to 889, or 90 per cent.

A striking feature of statistics during the War has been the decreased proportion of recidivists convicted of *serious* crime tried on indictment. In 1913, 3,462 persons, or 34 per cent. of the total convicted, had incurred six or more previous convictions: in 1918, this number had fallen to only 786, or 17 per cent. of the whole.

Soon after the outbreak of War, drastic measures were enforced on the sale of intoxicating liquor. On the 31st August, 1914, the Intoxicating Liquor (Temporary Restriction) Act, 1914, was passed, and under its provisions numerous Orders were made by the Licensing Justices, suspending the sale or consumption of liquor on licensed premises or clubs. Similar Orders were also made by Naval and Military Authorities. In June, 1915, the Central Control Board (Liquor Traffic) was constituted under an Order in Council, which established the Defence of the Realm (Liquor Control) Regulations 1915, pursuant to Act of Parliament. Statistics for the offence

of Drunkenness showed a remarkable decrease year by year, as will be seen from the following Table:—

Year	Convictions for Drunkenness in England & Wales		
	Males.	Females.	Total
1913	153,112	35,765	188,877
1914	146,517	37,311	183,828
1915	102,600	33,211	135,811
1916	62,946	21,245	84,191
1917	34,103	12,307	46,410
1918	21,853	7,222	29,075
Decrease per cent since 1913	86	79	85

Another remarkable feature of prison statistics during the War was the practical disappearance of the Vagrant, convicted of Begging and Sleeping-Out. In the years before the War, as many as 27,000 had been committed annually for this offence (see chapter XIII), while in 1918-19 only 1,066 were received, and these were said to have been largely the aged and the mentally or physically weak.

From observation of all the causes leading to the very remarkable decrease in every category of criminal offences during the War, the conclusion to be drawn seems to be that when employment is easy and plentiful, and when, at the same time, there is severe restriction of the opportunities for spending wages in intoxicating drink, there is the probability that the records of crime (and by 'crime' is meant not only grave offences, but the multitude of offences against Police Regulations, Vagrancy, &c.) would be very low in the community. In past years, the effect upon crime of prosperity, leading to good wages and easy employment, seems to have been obscured in criminal statistics owing to the enormous figures of

convictions of Drunkenness, which, in some recent years, have exceeded 200,000, and have represented one-third of the whole receptions into prison. The following Table is interesting as showing the comparison of prison statistics during a year (1918-19) of plentiful employment with restrictions on the sale of intoxicating liquor, with a year in which there was acute trade depression :—

	1918-19	1908-09
Board of Trade percentage of Unemployment.....	·08	7·8
Daily Average Local Prison population (excluding Military prisoners) ..	5,500	16,000
Total receptions on convictions	26,050	184,901
Including		
Charges for Drunkenness	1,670	62,822
„ Begging and Sleeping-Out	1,066	27,337
„ Larceny	8,380	24,060
Total Debtors received.....	1,830	18,996
Number committed in default of fine ...	5,264	95,686

The great fall in the prison population made it possible to close temporarily, at various dates, a considerable number of the penal institutions, representing about one-quarter of the total cellular accommodation of the country. These included the large convict prison at Dartmoor, which was utilized as a “Work Centre” for the prisoners known as “Conscientious Objectors,” and the Borstal Institution at Feltham.

So far as crime generally in the country is concerned, a comparison with the Tables printed on pages 216-8 shows a further great falling-off, as follows :—

	Number tried or proceeded against.		
	1917	1913	Decrease per cent.
(a) Serious crime tried on indictment.....	5,586	12,511	55
(b) Less serious, though indictable crime, tried summarily ..	57,419	50,758	13 (increase)
(c) Non-indictable offences of a criminal nature	52,152	71,124	27
(d) Non-indictable offences of a non-criminal nature.....	393,606	609,116	35

With regard to category (a), serious offences against the person have fallen since 1913 by 39 per cent; offences against property with violence (burglary, house-breaking, &c.) by 58 per cent; and offences against property without violence (larceny, receiving, &c.) by 60 per cent.

As regards the increase shown under category (b) above, a large proportion of the charges included are for petty larceny by children and "young persons." Deducting these from the total, the offences committed by persons over 16 total to 33,012 and 36,433 for the years 1917 and 1913 respectively, or 9 per cent. decrease.

In category (d) are included 65,386 offences created by war-time legislation, viz: offences against regulations made under the Defence of the Realm Acts, about 50,500; Aliens Restriction Act, 1914, 13,600; and National Registration Act, 1,192. If these be excluded, the decrease shown in the Table above would be about 46 per cent.

Although over two years have elapsed since the cessation of hostilities, during which time several million

men have returned to civil life, and although during that time there has been much industrial unrest, and though certain modifications have been allowed on the severe restrictions placed upon the sale of intoxicating liquor, referred to above, the ordinary prison population is still 36 per cent. below that at the time of the outbreak of war, viz:—

Number in Custody on :—	Local Prisons	Convict Prisons	Preventive Detention Prisons	Borstal Institutions
4th Aug. 1914	13,580	2,601	247	925
1st March 1921	8,535	1,305	73	1213

The elimination of many thousands of petty offenders from the prison population, due to the causes enumerated above, has had the effect of reducing enormously the *volume* of recidivism to be found in Local Prisons at the present time, though the *proportion* who had been previously convicted remains about the same as formerly. Thus, the total with *more than three previous convictions* who were committed during the first three months of 1920, as compared with a similar period in 1914, shows a decrease of no less than 73 per cent. in the case of males and 66 per cent. in the case of females. The actual figures are as follows:—

	Receptions on conviction during the first three months of			
	1914.		1920.	
	M.	F.	M.	F.
Number received				
with 1-3 previous convictions	6,533	1,772	2,132	685
„ 4-5 „ „	1,704	845	397	189
„ 6-10 „ „	2,490	832	513	226
„ 11-10 „ „	2,243	816	475	257
„ over 20 „ „	1,866	1,476	453	583

As regards the population in Convict Prisons, the great bulk of whom are classified as Recidivist, only about 700 are so classified at the present time, as compared with 2,000 at the beginning of the present century; while the supply of the Juvenile-Adult sentenced to penal servitude has almost ceased: in 1901 there were 200 lads 16—21 serving sentences of penal servitude—to-day there are 9 only.

An examination of statistics for the years following the conclusion of the Wars of the previous century shows that any increase which then took place was largely attributable to industrial depression, and that, on the revival of trade, they fell to their normal level. If, at the present time, there is a reversion to the former state of things—unrestricted sale of intoxicating liquor, or should recurring cycles of acute trade depression result in widespread unemployment and poverty,—it may be expected that the Prisons of the country will once again be occupied with thousands of tramps and vagrants, and petty offenders committed for short periods, and that the provisions of the Criminal Justice Administration Act as to checking committals in default of payment of fine will be largely nullified. If, on the other hand, a social system can be devised and maintained which can facilitate the means of employment, while, at the same time, maintaining sobriety at its present level, there would incidentally be found in such measures the solution of the penal problem.

APPENDIX (A)

BORSTAL INSTITUTIONS.

EXTRACT from the PREVENTION OF CRIME ACT, 1908.
(8 Edw. 7, cap. 59).

PART I.

REFORMATION OF YOUNG OFFENDERS.

1.—(1) Where a person is convicted on indictment of an offence for which he is liable to be sentenced to penal servitude or imprisonment, and it appears to the court —

(a) that the person is not less than sixteen nor more than twenty-one years of age; and

(b) that, by reason of his criminal habits or tendencies, or association with persons of bad character, it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime;

Power of court to pass sentence of detention in Borstal Institution.

it shall be lawful for the court, in lieu of passing a sentence of penal servitude or imprisonment, to pass a sentence of detention under penal discipline in a Borstal Institution for a term of not less than † one year nor more than three years:

Provided that, before passing such a sentence, the court shall consider any report or representations which may be made to it by or on behalf of the Prison Commissioners as to the suitability of the case for treatment in a Borstal Institution, and shall be satisfied that the character, state of health, and mental condition of the offender, and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid.

(2) The Secretary of State may by order direct that this section shall extend to persons apparently under such age not exceeding the age of twenty-three as may be specified in the order, and upon such an order being made this section shall, whilst the order is in force, have effect as if the specified age were substituted for “twenty-one”:

† Altered to two years (vide Sec. 11 (1), C. J. A. Act, 1914).

Prevention of Crime Act, 1908.

Provided that such an order shall not be made until a draft thereof has lain before each House of Parliament for not less than thirty days during the session of Parliament, and if either House, before the expiration of that period, presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of any new draft order.

Applica- 2. Where a youthful offender sentenced to detention in a
tion to re- reformatory school is convicted under any Act before a court
formatory of summary jurisdiction of the offence of committing a breach
school of the rules of the school, or of inciting to such a breach, or
offences. of escaping from such a school, and the court might under
that Act sentence the offender to imprisonment, the court
may, in lieu of sentencing him to imprisonment, sentence him
to detention in a Borstal Institution for a term not less than
† one year nor more than three years, and in such case the
sentence shall supersede the sentence of detention in a
reformatory school.

Power to 3. The Secretary of State may, if satisfied that a person
transfer undergoing penal servitude or imprisoned in consequence of
from a sentence passed either before or after the passing of this
prison to Act, being within the limits of age within which persons may
Borstal be detained in a Borstal Institution, might with advantage
Institu- be detained in a Borstal Institution, authorise the Prison
tion. Commissioners to transfer him from prison to a Borstal In-
stitution, there to serve the whole or any part of the unex-
pired residue of his sentence, and whilst detained in, or placed
out on licence from, such an institution, this Part of this Act
shall apply to him as if he had been originally sentenced to
detention in a Borstal Institution.

Establish- 4.—(1) For the purposes of this Part of this Act the
ment of Secretary of State may establish Borstal Institutions, that is
Borstal to say, places in which young offenders whilst detained may
Institu- be given such industrial training and other instruction, and
tions. be subjected to such disciplinary and moral influences as will
conduce to their reformation and the prevention of crime, and
for that purpose may, with the approval of the Treasury,
authorise the Prison Commissioners either to acquire any land
or to erect or acquire any building or to appropriate the whole

† Altered to two years (vide Sec. 11 (1), C. J. A. Act, 1914).

Prevention of Crime Act, 1908.

or any part of any land or building vested in them or under their control, and any expenses incurred under this section shall be paid out of moneys provided by Parliament.

(2) The Secretary of State may make regulations for the rule and management of any Borstal Institution, and the constitution of a visiting committee thereof, and for the classification, treatment, and employment and control of persons sent to it in pursuance of this Part of this Act, and for their temporary detention until arrangements can be made for sending them to the institution, and, subject to any adaptations, alterations, and exceptions made by such regulations, the Prison Acts, 1865 to 1898 (including the penal provisions thereof), and the rules thereunder, shall apply in the case of every such institution as if it were a prison.

5.—(1) Subject to regulations by the Secretary of State, **Power to** the Prison Commissioners may at any time after the expira- **release on** tion of six months, or, in the case of a female, three months, **Licence** from the commencement of the term of detention, if satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, by licence permit him to be discharged from the Borstal Institution on condition that he be placed under the supervision or authority of any society or person named in the licence who may be willing to take charge of the case.

(2) A licence under this section shall be in force until the term for which the offender was sentenced to detention has expired, unless sooner revoked or forfeited.

(3) Subject to regulations by the Secretary of State, a licence under this section may be revoked at any time by the Prison Commissioners, and where a licence has been revoked the person to whom the licence related shall return to the Borstal Institution, and, if he fails to do so, may be apprehended without warrant and taken to the institution.

(4) If a person absent from a Borstal Institution under such a licence escapes from the supervision of the society or person in whose charge he is placed, or commits any breach of the conditions contained in the licence, he shall be considered thereby to have forfeited the licence.

(5) A court of summary jurisdiction for the place where the Borstal Institution from which a person has been

Prevention of Crime Act, 1908

placed out on licence is situate or where such a person is found may, on information on oath that the licence has been forfeited under this section, issue a warrant for his apprehension, and he shall, on apprehension, be brought before a court of summary jurisdiction, which, if satisfied that the licence has been forfeited, may order him to be remitted to the Borstal Institution, and may commit him to any prison within the jurisdiction of the court until he can conveniently be removed to the institution.

(6) The time during which a person is absent from a Borstal Institution under such a licence shall be treated as part of the time of his detention in the institution: Provided that where that person has failed to return to the institution on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the institution.

(7) A licence under this section shall be in such form and shall contain such conditions as may be prescribed by regulations made by the Secretary of State.

Supervi-
sion after
expiration
of term of
sentence.

6.—(1) Every person sentenced to detention in a Borstal Institution shall, on the expiration of the term of his sentence, remain for a further period of † six months under the supervision of the Prison Commissioners.

(2) The Prison Commissioners may grant to any person under their supervision a licence in accordance with the last foregoing section, and may revoke any such licence and recall the person to a Borstal Institution, and any person so recalled may be detained in a Borstal Institution for a period not exceeding ¶ three months, and may at any time be again placed out on licence:

Provided that a person shall not be so recalled unless the Prison Commissioners are of opinion that the recall is necessary for his protection, and they shall again place him out on licence as soon as possible ‡ and at latest within three months after the recall, and that a person so re-called shall not in any case be detained after the expiration of the said period of six months' supervision.

† Altered to one year, (vide Sec. 11 (2), C. J. A. Act, 1914).

¶ „ „ one year, („ „ 11 (3), „ „ „).

‡ The passage from "and at latest" to "six months supervision" repealed by C. J. A. Act, 1914.

Prevention of Crime Act, 1908.

(3) A licence granted to a person before the expiration of his sentence of detention in a Borstal Institution shall, on his becoming liable to be under supervision in accordance with this section, continue in force after the expiration of that term, and may be revoked in manner provided by the last foregoing section.

(4) The Secretary of State may at any time order that a person under supervision under this section shall cease to be under such supervision.

7. Where a person detained in a Borstal Institution is reported to the Secretary of State by the visiting committee of such institution to be incorrigible, or to be exercising a bad influence on the other inmates of the institution, the Secretary of State may commute the unexpired residue of the term of detention to such term of imprisonment, with or without hard labour, as the Secretary of State may determine, but in no case exceeding such unexpired residue.

8. Where a society has undertaken the duty of assisting or supervising persons discharged from a Borstal Institution, either absolutely or on licence, there may be paid to the society out of money provided by Parliament towards the expenses of the society incurred in connection with the persons so discharged such sums on such conditions as the Secretary of State, with the approval of the Treasury, may recommend.

9. Where a person has been sentenced to detention in a Borstal Institution in one part of the United Kingdom, the Secretary of State, the Secretary for Scotland or the Lord Lieutenant of Ireland, as the case may be, may, as authority under this Act for that part of the United Kingdom, direct that person to be removed to and detained in a Borstal Institution in another part of the United Kingdom, with the consent of the authority under this Act for that other part.

Transfer
of incor-
rigibles,
&c. to
prison.

Treasury
contribu-
tions to-
wards ex-
penses of
societies
assisting,
&c. per-
sons dis-
charged
from
Borstal
Institu-
tions.

Removal
from one
part of the
United
Kingdom
to
another.

EXTRACT FROM THE CRIMINAL JUSTICE
ADMINISTRATION ACT, 1914 (4 & 5 Geo. 5, cap. 58).

Committals to Borstal Institutions.

- Power to send youthful delinquents to Borstal institutions 10.—(1) Where a person is summarily convicted of any offence for which the court has power to impose a sentence of imprisonment for one month or upwards without the option of a fine, and—
- (a) it appears to the court that the offender is not less than sixteen nor more than twenty-one years of age; and
 - (b) it is proved that the offender has previously been convicted of any offence or, that having been previously discharged on probation, he failed to observe a condition of his recognizance; and
 - (c) it appears to the court that by reason of the offender's criminal habits or tendencies, or association with persons of bad character, it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime,

it shall be lawful for the court, in lieu of passing sentence, to commit the offender to prison until the next quarter sessions, and the court of quarter sessions shall inquire into the circumstances of the case, and, if it appears to the court that the offender is of such age as aforesaid and that for any such reason as aforesaid it is expedient that the offender should be subject to such detention as aforesaid, shall pass such sentence of detention in a Borstal institution as is authorised by Part

8 Edw. 7. I. of the Prevention of Crime Act, 1908, as amended by this
c. 59. Act; otherwise the court shall deal with the case in any way in which the court of summary jurisdiction might have dealt with it.

(2) A court of summary jurisdiction or court of quarter sessions, before dealing with any case under this section, shall consider any report or representations which may be made to it by or on behalf of the Prison Commissioners as to the suitability of the offender for such detention as aforesaid, and a court of summary jurisdiction shall, where necessary, adjourn the case for the purpose of giving an opportunity for such a report or representations being made.

Criminal Justice Administration Act, 1914.

(3) Where a person is committed to prison under this section, his treatment in prison shall, so far as practicable, be similar to that in Borstal institutions, or he may, if the Secretary of State so directs, be transferred to a Borstal institution.

(4) The Costs in Criminal Cases Act, 1908, shall apply 8 Edw. 7 c. 15. in the case of a person committed to prison by a court of summary jurisdiction under this section as if that person were committed for trial for an indictable offence.

(5) A person sentenced by a court of quarter sessions under this section to detention in a Borstal institution may appeal against the sentence to the Court of Criminal Appeal as if he had been convicted on indictment, and the provisions of the Criminal Appeal Act, 1907, shall apply accordingly. 7 Edw. 7

(6) This section shall come into operation on the first c. 23. day of September nineteen hundred and fifteen.

11.—(1) The term for which a person or youthful offender may be sentenced to detention in a Borstal institution under section one or section two of the Prevention of Crime Act, 1908, shall not be less than two years, and accordingly “two years” shall be substituted for “one year” in subsection (1) of section one and in section two respectively of that Act. Amendment and application of Part I. of the Prevention

(2) The period for which a person sentenced to detention in a Borstal institution is on the expiration of the term of his sentence to remain under the supervision of the Prison Commissioners shall be one year, and accordingly “one year” shall be substituted for “six months” in subsection (1) of section six of the same Act. Crime Act, 1908.

(3) The maximum period for which a person so under the supervision of the Prison Commissioners may on recall to a Borstal institution be detained in such an institution shall be one year, and he may be so detained notwithstanding that the period of supervision has expired, and accordingly “one year” shall be substituted for “three months” in subsection (2) of section six of that Act.

(4) The provisions of Part I. of the Prevention of Crime Act, 1908, as so amended, shall apply to persons sentenced to detention in a Borstal institution under this Act in like manner as they apply to persons sentenced under that Part of that Act.

BORSTAL INSTITUTIONS

FOR

MALES AND FEMALES.

Regulations made by the Secretary of State under Section 4 (2) of the Prevention of Crime Act, 1908.

Grades.

1. Persons sentenced to detention under Penal discipline in a Borstal Institution, or transferred for the purpose of such detention under Section 3 of the Act, shall be divided into grades, proceeding from the Ordinary to the Special Grade, where promotion is justified by industry and good conduct. Failing that, inmates may be degraded or forfeit any privileges of their Grade, or be reduced to the Penal Class.

2. Promotion will be regulated by the close personal observation of the inmates, attention being specially paid to their general behaviour, their amenability to discipline, and their attention to instruction, both literary and industrial.

3. There will be an ascending scale of privileges enjoyed by inmates as they pass from one Grade to another.

4. Inmates may be placed in the Penal Class by order of the Governor if believed by him to be exercising a bad influence, but no inmate shall be detained in it longer than is necessary in the interests of himself or others. While in the Penal Class, inmates shall be employed in separation at work of a hard and laborious nature and wear a special dress.

5. Promotion in the early stages will be decided by the Governor, on the report of the party officers. Promotion to the Probationary and Special Grades will be by the selection of a Board, to be called the Institution Board (composed of such officers of the Institution as the Prison Commissioners may select), at their monthly meeting, but inmates shall not be promoted unless the Board are satisfied that they deserve it, and they shall not be retained in either Grade, should it be considered necessary to remove them for any good reason.

Inmates may qualify for the Probationary Grade after passing nine months in the lower Grades in the case of males, and twelve months in the case of females.

6. Well-conducted inmates in the Special Grade may be selected by the Governor for work in places of trust and confidence on the farm or elsewhere, may be placed on parole, and may perform their work under such conditions for custody and supervision as he may think fit.

7. Inmates in the Special Grade, in addition to other privileges, will wear, in addition to a distinctive dress, a good conduct badge for every three months passed in the Special Grade. For every such badge they may be allowed a small money payment, which may be devoted to the purchase of approved objects, or sent to their relations.

8. They may also be specially selected for the duties of monitors, and will assist in the administration of the Establishment in various capacities, and will be known as the "Star Special" Grade.

9. The Visiting Committee shall consist of not less than six persons appointed by the Secretary of State. They shall hold office for such period not exceeding three years as may be fixed by the Secretary of State. They may exercise all such powers as are given to the Visiting Committees by the rules for the Government of Local Prisons made under the Prison Act, 1898.

10. As soon as any person is sentenced to detention in a Borstal Institution, arrangements shall be made for his removal thither, and until such arrangements can be made, he will be specially located and segregated in the prison of the district whence he was committed, and be subject to the Prison Rules for offenders sentenced to imprisonment without hard labour: provided that where, owing to lack of accommodation in the Borstal Institutions, immediate arrangements cannot be made for the removal of any person so sentenced to any Borstal Institution, the Prison Commissioners may temporarily locate such person in a prison where training similar to that given in Borstal Institutions is being given to a class of Juvenile-Adult prisoners; and any person so located shall not be allowed to associate with any

prisoners except members of the Juvenile-Adult class, and shall be removed to a Borstal Institution as soon as accommodation is available.

11. Gratuities shall be placed to the credit of inmates, and shall be expended in assisting them on discharge.

12. When the Institution Board, having closely examined into the character and conduct of an inmate, and being satisfied, after communication with any society or person interested in the case, that there is a reasonable probability (1) that he will lead a useful and industrious life and abstain from crime, and (2) that employment will be found for him, may at any time, always provided that he has served not less than six months of his sentence, or three months in the case of females, submit the case to the Visiting Committee who, if they think fit, may thereupon recommend to the Prison Commissioners that he be discharged from the Institution on licence.

13. Special provision will be made for the discharge on licence of each inmate by arrangement with benevolent societies or persons who may be willing to assist the case on discharge. Full information will be afforded, and help given, to such societies or persons with the object of securing a continuous and well-directed supervision of the case, both at the moment of discharge and afterwards at the home or place to which the inmate goes. Every encouragement will be given to preliminary visitation in the Institution before discharge, in order that the Society or individual may have a personal knowledge of the inmate, and be in possession of the views of the authorities of the Institution concerning him.

14. If the Prison Commissioners are satisfied that an inmate who has been released on licence has escaped from the supervision of the Society or person under whose care he has been placed, or has been guilty of serious and wilful breach of the conditions of his licence and that the case cannot be dealt with by admonition and warning they may revoke the licence in pursuance of Section 5 (3) of the Act.

15. Inmates whose licences have been revoked under Section 5 (3) or forfeited under Section 5 (4) of the Act, may be detained in the Penal Class for such length of time as the Institution Board shall deem it necessary, having regard to all the circumstances of the case, or they may be placed in the Ordinary Grade, but shall not be promoted therefrom except with the approval of the Prison Commissioners.

16. The Form of Licence under Section 5 (1) and of Revocation under Section 5 (3) of the Act shall be in the form of the Schedule appended hereto.

SCHEDULE A.

PREVENTION OF CRIME ACT, 1908. *No.*

(8 Edw. 7. Ch. 59.)

CRIMINAL JUSTICE ADMINISTRATION ACT, 1914.

(4 & 5 Geo. 5, Ch. 58.)

ORDER FOR DISCHARGE ON LICENCE FROM A BORSTAL INSTITUTION.

PRISON COMMISSION.

HOME OFFICE, WHITEHALL,

day of. 19

The Prison Commissioners, in pursuance of the powers conferred upon them by the Prevention of Crime Act, 1908, do by this Licence permit _____, who at the

held at _____ on the _____ of _____, 19____, for the _____ of _____ was convicted of _____ and was sentenced to detention in a Borstal Institution for a term of _____ years, and is now detained in the Institution at _____, to be discharged from the said Institution within thirty days from the date hereof on condition that he places himself under the care, supervision and authority of the Honorary Director of the Borstal Association, until the expiration of his sentence on the _____ of _____ 19____, and during the further period of one year for which he is liable by the said Act to remain under supervision, namely until the _____ day of _____ 19____, unless the Prison Commissioners sooner revoke or alter this Licence.

This Licence is granted subject to the conditions endorsed hereon, upon the breach of any of which it will be liable to be revoked or forfeited.

Secretary, Prison Commission.

CONDITIONS.

1. The Licensee shall proceed to 15, Buckingham Street, Strand, W.C. and shall not without the consent of the Society or person under whose charge he has been placed, remove from that place or such other place as may be named by the Society or person.

2. He shall obey such instructions as he may receive with regard to punctual and regular attendance at employment or otherwise; he shall report himself periodically, either personally or by letter, if required to do so; he shall not change his address without permission.

3. He shall abstain from any violation of the law, shall not associate with persons of bad character, and shall lead a sober and industrious life to the satisfaction of the Borstal Association.

ATTENTION IS DIRECTED TO THE FOLLOWING PROVISIONS OF "THE PREVENTION OF CRIME ACT, 1908."

Section 5. (3) A licence under this section may be revoked at any time by the Prison Commissioners, and where a licence has been revoked the person to whom the licence related shall return to the Borstal Institution, and if he fails to do so may be apprehended without warrant and taken to the Institution.

(4) If a person absent from a Borstal Institution under such a licence escapes from the supervision of the Society or person in whose charge he is placed, or commits any breach of the conditions contained in the licence, he shall be considered thereby to have forfeited the licence.

(6) The time during which a person is absent from a Borstal Institution under such a licence shall be treated as part of the time of his detention in the Institution; provided that where that person has failed to return to the Institution on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the Institution.

I hereby acknowledge that I am aware of the above-named conditions, &c., which have been explained to me.

Inmate.

Governor,

SCHEDULE B.

PREVENTION OF CRIME ACT, 1908,

(8 Edw. 7, Ch. 59.)

CRIMINAL JUSTICE ADMINISTRATION ACT, 1914.

(4 & 5 Geo. 5, Ch. 58.)

No.

ORDER OF REVOCATION OF LICENCE FOR DISCHARGE

FROM BORSTAL INSTITUTION.

WHEREAS by Licence bearing date the day of
19 , you

being a person under sentence of detention in the
Borstal Institution, were duly licensed to the care of the Honorary
Director of the Borstal Association, of 15, Buckingham Street,
Strand, in the County of London, for the period of months,
 days, from the Prison Commissioners do
thereby revoke the said Licence from the date hereof, and require you
the said forthwith to return
to the Institution at

Given under my hand this day of 19

Secretary.

NOTE.—A person failing to return to a Borstal Institution
on revocation of his Licence may be apprehended without warrant
and be taken to the Institution.

(See Section 5 (3) of the Prevention of Crime Act, 1908.)

MEMORANDUM TO GOVERNORS,

MALE BORSTAL INSTITUTIONS.

The following arrangements for carrying out the Borstal System have been arrived at after a series of experiments lasting over twelve years. Conferences have been held from time to time among the various Governors and others who have been charged with the carrying of the System into effect and it is believed that these arrangements will fulfil the object at which they aim, viz:— the due instruction and reclamation of Borstal inmates by the means suggested—physical, mental, and moral.

See III ✓ The System aims at an intellectual, physical, and moral improvement and development of each inmate. The first will be secured by a carefully arranged educational system appropriate to the needs of each. The second by a methodical system of labour, which shall be, as far as possible, of an interesting and instructive kind analogous to the day of a free workman in full employment. Drill and Gymnastics for the bodily development of inmates will be a leading feature of the System. Education and labour well organized will thus largely contribute to the “disciplinary and moral influences” referred to in Section 4 of the Act. There will be, in addition, the moral precept and example of the Staff, superior and subordinate. Each and all have a great trust confided to them, which is to raise the young offender, by personal influences and wise exhortation, to a due sense of duties and responsibilities as a law-abiding citizen. The System will rest primarily on good discipline, firmly but kindly administered. In the obedience which follows from this is the beginning of moral improvement. This being secured, the System admits a wide latitude for trust and confidence in the later stages, whence will spring the sense of honour and self-respect. When this sentiment has been inculcated, the purpose of the Act may be said to be fulfilled, namely, the reformation of the offender, and, incidentally, the repression of crime, for if the criminal habit be arrested at the beginning, the supply of criminals in the later stages of their career is effectively stopped.

1. The Borstal course in future will be as follows:—

- (a) the Ordinary Grade — 3 months.
- (b) the Intermediate Grade — 6 months: divided into two Sections A & B.
- (c) the Probationary Grade,
- (d) the Special Grade, and
- (e) the Star Special Grade.

The Penal Grade will be known, in future, as the Penal *Class*, so as to avoid confusion with other Grades.

2. Inmates in the Ordinary Grade will work in association during the day, but in order to prevent lads in this stage being kept for unduly long periods in separate confinement, arrangements will be made by which inmates shall not retire to their rooms until late in the evening. Education will take place in the evening as furnishing an opportunity for bringing the lads out of their rooms, or, failing this, some other means will be devised. Inmates in this Grade will go through the ordinary course of physical exercises and drill, but will be debarred from the privileges which can be earned later of games, &c. It is obvious that the period passed in the Ordinary Grade will furnish the opportunity for special observation and attribution to later employment, &c.

3. The system of awarding marks to indicate progress through and out of the Grade will be discontinued. The award of gratuity will also be abolished, but a sum of £1 will be paid to the Borstal Association for each inmate released, for the purpose of providing assistance to inmates on discharge. The inmates will be divided into Divisions, and a Tutor will be allocated to each.

He will act, so to speak, as the Headmaster of a Division, and will be responsible for advising the Governor as to the conduct, character, and progress of each individual lad. No lad will be passed out of the Ordinary Grade unless the Governor is satisfied, after consultation with the Tutor, the Principal and the Party Officers, that his conduct and industry are such as to merit advancement. The conduct will be recorded weekly in a Register kept for the purpose, for which the Principal Officer of the Division will be responsible. The Instructor or Party Officer will be supplied with pocket registers in which notes will be made containing anything of importance concerning the character, demeanour, and industry of the lad. These will be collected by the Principal Officer of the Division and brought before the Tutor or head of the Division, and will, as stated, furnish the Governor with the opportunity of making his decision as to the advancement of the lad out of the Ordinary Grade.

4. A lad on passing out of the Ordinary Grade will pass into the Intermediate Grade 'A'. He will then have the privilege of

meals in association, and he may associate on Saturday afternoons and Sundays, during which time talking may be allowed, and games, such as chess and draughts, may be played in the corridor. After remaining for three months in this Grade, he will pass into the Intermediate Grade 'B', where he will be allowed to play games in the open air.

5. After completing three months in Intermediate Grade 'B', inmates should be eligible for the Probationary Grade, but no inmate will be passed into the Probationary Grade except after formal consideration of his case by the Institution Board. No inmate will pass out of the Probationary Grade except on special certificate of the Institution Board that he has profited by his training and can safely be trusted with the liberties and privileges of the Special Grade. There will be no automatic passage to the Special Grade, which will consist only of those who have proved their fitness for consideration and distinction, and in whose case a reasonable hope exists that they may be fit subjects for conditional release. Release will be regulated by Instruction No. 22.

6. The Division under the leadership of the Tutor will be organized in such a way that competition between Sections may stimulate a healthy rivalry and competition, which can be proved in different ways, *e.g.* by proficiency on parade, or by games in the open air, or by literary or artistic competitions, or any other way that may be devised. The object of this organization is to furnish means for dividing the Establishment into separate sections and promoting healthy rivalry between each, and to establish a close personal relation between the head of the Division and every individual in it.

7. The Penal Class will be separately located and clothed in ordinary prison dress. They will be specially employed on hard manual or bodily labour. Failing such employment on the land in any capacity, they will be employed on the penal forms of labour already in existence, *i.e.*, grain-grinding or stonebreaking.

8. In order to furnish a still further stimulus, a Star Special Grade will be introduced. To this could be admitted lads who had shown special proficiency as Captains of Companies or as Monitors in the Halls. It is proposed to introduce gradually the monitorial system by which lads would be placed in charge of sections both in the Halls and on the Parade Ground, and at games. Specially proficient lads might even supervise parties at labour, &c. Where this character and proficiency is shown, promotion will be made to the Star Special Grade. A distinctive article of dress will be worn, but these details will be worked out by each Governor on the spot, after observing the general operation of the System.

9. Labour parties, and numbers assignable to each, will be strictly and definitely prescribed. Selection will be made for instruction in special trades, and for distribution of the remaining strength, as shall be arranged by the Governor.

It will be clearly understood that there will be no casual distribution of labour in unauthorized parties. Every lad assigned to a definite employment for due observation will be maintained in that employment until specially removed, and will not be employed on any other. For any incidental work which may become necessary, labour and staff will be provided by special arrangement from one of the existing parties. One of the principal complaints against the System has been that the parties and officers have been constantly shifted. This will no longer be the case.

10. The Staff will be divided first of all into a main labour shift, which will be on duty day after day with the inmates during labour hours; and a domestic shift which will do duty from early morning till mid-day, and from mid-day till the closing of the Institution. This morning and evening duty will alternate from day to day. Appointments to fill vacancies in the staff will be to the Domestic shift. While serving in the Domestic shift they will be able to perform the duties allotted to them and acquire a sufficient knowledge of the work and objects of the Institution so as to enable them in time to pass into the main labour shift. The Probationers thus selected for service at Borstal Institutions will not pass through the Prison Officers' Training School. They will be specially instructed as to their duties on joining by the Governor, the Chaplain, the Medical Officer, and the Tutors, but this will take the place of the ordinary training, and they will be liable to report at the end of four months as to their fitness for Borstal work, and again at the end of their twelve months' probation. Great care will be taken not to pass for permanent service in a Borstal Institution any officer who does not show a special zeal, aptitude and interest for the duties entrusted to him.

11. It has been decided that a change shall be made in the title of Borstal Officers. They will be known as Borstal Officers simply. The Governor will be assisted in his daily duties by the Tutors, whose functions are detailed in paragraph 3. These Tutors (who will be members of the Institution Board) will have the rank of Acting Deputy Governor with all the powers of Deputy Governors and will be in charge of the Establishment in the absence of the Governor.

The head of the executive staff will be known as Chief of Staff, the Principal Warders as "Principal Officers" and others as ordinary "Officers", and they will wear Uniform different from that of a Prison Warder. The Chief of Staff will be the medium of communication between the Principal Officers and the Governor.

The Chief of Staff will, of course, have no power of adjudication, and every matter reported to him by Principal Officers as heads of sections will be reported to the Governor for such action as the Governor may order.

12. The object of the system is to individualize, and this can only be done with the cordial co-operation of the Tutors, whose time will be devoted to the careful observation of each inmate coming within their command. Subject, of course, to the general authority and supervision of the Chaplain, the Tutors will, in addition to their other duties, be responsible for the organisation of the Education of inmates in the lower and higher stages. Elementary Education will, as a rule, be left in the hands of the Schoolmasters, provided for this purpose, but the Tutors will themselves superintend and conduct the Higher and Technical Education in conformity with the Syllabus laid down.

13. It is not necessary to fill in this sketch of the system to be aimed at in greater detail. The problem of the best system to adopt for the handling, treatment and the reclamation of these lads can only be arrived at after much experience. Governors will have a free hand in experimental work, and will at their respective Institutions work out the system as best they can, with the co-operation of an efficient staff. Details as to hours of duty etc. are matters which can generally be arranged by discussion between the Governor and his staff. Officers will understand that the Borstal System is a very peculiar and difficult problem, and that the administration of it differs essentially from that of ordinary prisons. They will, I feel sure, co-operate heartily with any scheme which the Commissioners may decide is necessary for the full efficiency of the system.

E. RUGGLES-BRISE.

Instructions for carrying out the Regulations under the Prevention of Crime Act, 1908.

MALES.

1. All inmates on reception will be placed in the Ordinary Grade when they will pass by Progressive Stages through a Probationary to a Special Grade.

Ordinary Grade.

2. An inmate will remain in the Ordinary Grade for at least three months, and will be employed on domestic service.

No Association at meals: no conversation.

During this period he will be carefully observed by the whole staff as to his character, mentality, and fitness for a special trade.

One letter on reception. One letter and one visit (30 minutes), or letter in lieu.

Intermediate Grade "A".

3. At least three months: placed in a trade suitable to his individual taste and capacity. Meals in association. No games in evening. Games on Saturday. Two letters and one visit (40 minutes) or letter in lieu.

Intermediate Grade "B".

4. At least three months: Games on Saturday out of doors. Weekly newspapers. Two letters and two visits (40 minutes) or letters in lieu.

Probationary Grade.

5. To be selected by the Institution Board. Meals in association. Games in association in evening inside. Games in playing fields on Saturday afternoon and evening if possible. Daily newspapers. One letter and one visit (40 minutes) or letter in lieu every fortnight

Special Grade.

6. To be selected by the Institution Board. May be employed without supervision in Honour parties. Badge money may be earned by exemplary conduct as follows:—

5/-	after 3 months
7/6	„ 6 „
10/-	„ 9 „
10/-	every 3 months after.

The Badge money awarded every 3 months may be spent by inmates on approved objects, or sent to their relations. A special room will be provided as a club room for reading, writing, &c. One letter and one visit (50 minutes) or letter in lieu every fortnight.

Star Special Grade.

7. When an inmate in the Special Grade appears, after close observation, to satisfy the Governor by his general demeanour and efficiency, that he can be safely placed in a position of special trust, he may be promoted to what will be known as the Star Special Grade, and wear a distinctive dress.

Such inmates may act as Monitors in different capacities, and may be placed in authority over other inmates on parade or in the Halls or common room, and other situations where they can assist the administration in various capacities.

Penal Class.

8. Where an inmate is believed to be exercising a bad influence, he shall be placed by the Governor in the Penal Class, for such time as the Governor considers necessary in the interest of the inmate himself, or others. While in the Penal Class, an inmate will be employed in separation on hard and laborious work, and will forfeit all privileges. The Governor will record in his journal particulars of every case ordered by him to be placed in the Penal Class, with the reasons for the same, and stating the period during which an inmate is so retained. The inmate will not be restored to the Special Grade without passing through a period of probation in the Ordinary Grade, of such duration as the Governor may determine.

Education.

9. There will be a Board of Education, over which the Chaplain will preside. It will be the authority to consider all questions

connected with the education of inmates, and will decide, as the result of examination, into which Grade each inmate shall be placed on reception.

10. The education of inmates will be classified as follows:—

- (1) Elementary. — Such inmates as are found on reception not to have profited sufficiently by the teaching received in Public Elementary Schools to pass out of Grade III of the National Code.
- (2) Progressive. — Those who can pass out of that Stage, and are fit subjects for higher Grades.
- (3) Technical. — Inmates engaged in the technical trades.

(1) ELEMENTARY EDUCATION. — The standard aimed at may be broadly defined as follows, viz. :— “the ability to write a letter such as is needed by a workman applying for employment, and such arithmetic as a workman needs for the ordinary purpose of daily life, including checking his wages.” Such a Standard is practically represented by Grade III of the National Code, viz. :—

WRITING :—

Simple Spelling rules.
Simple Composition.
Reconstruction of easy stories.
Easy letter writing.
Dictation.

ARITHMETIC :—

4 simple rules.
4 compound rules (money & easy weights & measures).
Introduction to decimal system.
Simple fractions.

All inmates not qualified to pass from that Grade shall receive Education during the first three months of their sentence, at such times and in such classes as the Board of Education, created by Instruction 9, shall decide; and such period may be extended in any special case where the Board is of opinion that it would be to the advantage of an inmate that this should be done.

Where an inmate obviously fails to profit by instruction, and there may be reason to think that this may be due to physical or mental causes, he will be specially examined by the Medical Officer, and such steps will be taken on his report as may be deemed suitable to meet the special circumstances of the case.

(2) THE PROGRESSIVE CLASS will consist of all those inmates who have passed through a period of Elementary instruction. Arrangements will be made by the Board of Education for such inmates to attend Evening School at such times, and for such objects as they may decide.

(3) TECHNICAL CLASSES. — The syllabus will consist of Technical Mathematics and Drawing, and though specially suited to inmates in the Technical Trades, the subjects will form a basis for any lad desirous of improving his knowledge on those lines.

11. In addition to the times set apart for these respective Classes, there will be a Silent Hour for private study, for which a period of absolute silence for one hour daily will be introduced throughout the Institution, during which time all inmates will be engaged in the study of educational or trade matter. It is considered that organized private study is the most satisfactory way of securing that inmates shall not be locked in their rooms until late in the evening.

The objects of the Silent Hour are :—

- (1) To provide opportunity (a) for the working of tasks set by the Schoolmasters; (b) for inmates to study their trade text books and prepare notes from the same;
- (2) To occupy the minds of the inmates in a profitable manner.
- (3) To inculcate habits of studious application in order that the benefits of mental concentration and self-control may become apparent.

12. It will be seen that a great responsibility is incumbent on the Education Board in arranging the details of Education on these lines. It will be the duty of the Governor, acting on the advice of the Chaplain and Tutors, to arrange the details of each Class, consistently with the general needs of the Establishment and the convenience of the staff; and it is only by a real and hearty co-operation between all members of the educational staff that the object of the system can be attained, viz.:— in the first place, to raise the ignorant and illiterate to such a standard of education as will enable them to compete with the ordinary conditions of life on discharge; and, secondly, to furnish opportunity to write intelligent English, and to rise not only to the higher educational grades, but to obtain special technical knowledge in the particular trades to which their faculties are applied.

13. In addition to the ordinary educational curriculum, it will be the duty of the Education Board, subject to the authority of the Governor, to organize a regular system of Lectures or Addresses, on

such subjects as, in their opinion, are calculated to increase knowledge, to widen outlook, and to inspire by example, *e.g.*, readings from history or biography. They may, in addition, organize Debating Societies, where inmates can themselves take part in discussion on selected subjects. It is considered that Debating Societies might be a great advantage to the Institution. The advice of the Chaplain Inspector will always be available for the organization of the conduct of such Societies. They may also arrange for the formation of Singing or Choral Classes.

Offences and punishments.

14. No punishment or privation of any kind shall be awarded to an inmate by any officer of the institution except the Governor, or, in his absence, the officer appointed to act for him.

15. An inmate shall be guilty of an offence against the discipline of the institution if he:—

- (1) Disobeys any order or rule.
- (2) Treats an officer with disrespect.
- (3) Is idle or careless at work.
- (4) Is irreverent at Divine Service or Prayers.
- (5) Uses bad language, or threats.
- (6) Is indecent in language, act or gesture.
- (7) Strikes or behaves in a provoking way to another inmate.
- (8) Makes a disturbance by singing, whistling or shouting.
- (9) Does any damage.
- (10) Has in his room, or cubicle, or dormitory, or in his pockets or clothes, anything he has not been given leave to have. Nothing found on the works, or on the farm, may be picked up and kept.
- (11) Receives anything from any other inmate, or gives anything to any inmate without leave.
- (12) Misbehaves himself in any other way.

16. The Governor may examine any person touching any alleged offence against the discipline of the institution, and determine thereupon and punish the offence.

17. In addition to the power vested in the Governor for ordering an inmate to be placed in the Penal Class (Instruction 8), the above offences may be punished by him in the following way:—

- (1) In the deprivation of any privileges ; or
- (2) In the manner prescribed by Prison Rules.

18. If an inmate is charged with any serious or repeated offence for which the punishment the Governor is authorized to inflict is deemed insufficient, he shall be brought before the Visiting Committee, or one of them, who, in addition to any power vested in the Governor, may order, such punishment as is prescribed by Prison Rules ; or, in the exercise of their discretion, may report him to the Secretary of State as incorrigible, or exercising a bad influence, with a view to commutation to a sentence of imprisonment under Sec. 7 of the Act of 1908.

19. While under No. 2 diet, the inmate will be employed in separation on outdoor work, to be tasked with due regard to the dietary scale.

20. If any inmate is charged with :—

- (1) Mutiny or incitement to mutiny,
- (2) Gross personal violence to any officer or servant of the Institution,

the Visiting Committee have the power within the provisions of the Prison Act, 1898, to order corporal punishment in addition to, or in lieu of, their other powers of punishment.

21. Dietary punishment shall not be inflicted on any inmate, nor shall he be placed in close or separate confinement, nor shall corporal punishment be inflicted, unless the Medical Officer has certified that the inmate is in a fit condition of health to undergo the punishment.

Release on licence.

22. Although in the ordinary course the Institution Board will not bring forward for licence any inmate who has not attained the Special Grade, yet cases will occur from time to time in which the Institution Board, in the exercise of their discretion, may think an earlier licence to be desirable. Such cases the Board may, and should, recommend for licence at any time when they think it in the best interests of the inmate to do so.

23. The essence of the Borstal System is that conditional licence can be granted when there is a reasonable probability that the offender will, if licensed, abstain from crime ; and although in most cases it is

likely that the test of promotion to the Special Grade will be the best index of such probability, yet the Institution Board will bear in mind the provisions of Section 5, Subsection (1) of the Prevention of Crime Act, 1908, and can and will bring forward for licence any inmate as soon as he appears to them to satisfy the conditions of that Subsection.

Application of Standing Orders for Local Prisons.

24. Officers and Inmates of Borstal Institutions shall be subject to the Standing Orders for Local Prisons, except in so far as they are inconsistent with the Regulations and Instructions made under the Prevention of Crime Act, 1908.

TIME TABLE FOR MALES.

5.40 a.m.	Inmates rise.
6.15 „	Drill.
6.45 „	Inmates breakfast.
7.30 „	Chapel.
8.0 „	Labour.
12 noon	Inmates dinner.
1.0 p.m.	Labour.
5.0 „	Inmates tea.
5.40 „	Evening School, Silent hour and recreation.
8.30 „	Inmates locked up.

MEMORANDUM TO THE GOVERNOR, AYLESBURY
BORSTAL INSTITUTION FOR FEMALES.

The object of the Borstal System being, as defined in Section 1 (b) of the Act of 1908, that those subject to it shall receive such instruction and discipline as appears most conducive to their reformation and to the repression of crime, the following methods will be adopted for giving effect to it. Under Section 5 (1) of the Act, a female offender may be discharged by licence from a Borstal Institution *after three months from the commencement of the term of detention*, if the Commissioners are satisfied that there is a reasonable probability that she will abstain from crime, and lead a useful and industrious life.

The object of the following Instructions is to provide a test by which the Authorities on the spot, *i.e.*, the Governor and the Institution Board, will be able to judge when an inmate can be licensed. It was the intention of Parliament, in prescribing the minimum period of three months in the case of females, to secure that they should be given a chance of liberty after completing that period, subject to the reasonable probability of their abstaining from crime, but experience has shown that in the great majority of cases a much longer period of detention is necessary to enable any real reformatory influence to be exercised. The responsibility in this matter rests primarily on the Institution Board, and it is only by the closest personal observation of each case from the commencement of the sentence that a true and just opinion may be formed as to the date on which a licence may be properly and wisely granted. The key-note of the system is, therefore, the 'individualization' of the inmate. Inmates will be interviewed regularly—those doing well encouraged; those doing badly cautioned, and made clearly to understand that they will not be allowed the privilege of the higher Grades until the Institution Board is completely satisfied that they are doing their best in every way to profit by the opportunities afforded. Each and all members of the staff have a great trust confided to them, which is to raise the young criminal, by personal influences and wise exhortation, to a due sense of duties and responsibilities as a law-abiding citizen. The system will rest primarily on good discipline, firmly but kindly administered. In the obedience which follows from this is the beginning of moral improvement. This being secured, the System admits a wide latitude for trust and confidence in the later stages, whence will spring the sense of honour and self-respect. When this sentiment has been inculcated, the purpose of the Act may be said to be fulfilled, namely, the reformation of the offender, and, incidentally, the repression of crime, for if the criminal habit be arrested at the beginning, the supply of criminals in the later stages of their career is effectively stopped.

E. RUGGLES-BRISE.

Instructions for carrying out the Regulations under the Prevention of Crime Act, 1908.

FEMALES.

1. All inmates on reception will be placed in the Ordinary Grade when they will pass by Progressive Stages through a Probationary to a Special Grade.

Ordinary Grade.

2. Inmates in the Ordinary Grade will be specially located. They will remain in the Grade for three months at least, being promoted to the Intermediate Grade at the Governor's discretion. Inmates will undergo physical training, and, subject to educational requirements, will work in association during morning and afternoon, and in their rooms, in the evening.

When, in the opinion of the Governor, it is desirable, in the interests of health, that an inmate on reception shall be employed for part of the day on outdoor work on farm or garden, this may be arranged for selected cases, in lieu of morning or afternoon labour.

The Ordinary Grade will be the deterrent or punitive period of detention, during which conversation except such as is incidental to their daily routine duties, will not be allowed.

Intermediate Grade.

3. Inmates will remain in the Grade for three months at least, being promoted to the Probationary Grade at the discretion of the Institution Board. They will be allowed an extra letter on promotion, associated exercise and games at week-ends.

Probationary Grade.

4. Inmates will remain in the Grade for six months at least. They will be specially located and will be allowed meals in association and conversational exercise and organised games at week-ends. When labour ceases in the afternoon, they will be permitted to change clothes for tea. Subject to educational requirements, classes, lectures, labour, &c., they will be free for recreation either in a room with others, or for the purpose of private work, study, &c., in their own rooms. The rooms will be locked only at night. Arrangements will be made, if practicable, to place inmates under Group Matrons in convenient groups. Marching in parties to labour

will cease. Each inmate will find her own way to work, &c. at the appointed time. The Group Matron will be responsible for seeing that the strictest punctuality is observed, and that at a given signal every inmate is in her proper place.

An inmate's conduct and industry will be closely observed during this stage, and she will not be passed out of this Stage until the Institution Board is fully satisfied that she is doing her best. When the Institution Board are so satisfied, she shall be passed into the Special Grade.

The Special Grade.

5. On passing into the Special Grade, an inmate's case will be specially considered for conditional licence. During the time that has elapsed since reception, under the scheme detailed, it ought to be possible for the Authorities on the spot to have formed an opinion whether, or not, as prescribed by Section 5 (1) of the Act, there is a reasonable probability that an inmate will lead a useful and industrious life if let out on licence. Cases, of course, differ infinitely. The causes that led to the Borstal sentence may be deeply ingrained, thus requiring a long period of reformatory training, or they may be due more to circumstance than character, and if the criminal habit or tendency is not deep seated, it is hoped that in many cases, the period of twelve months' detention, under healthy influences, will furnish sufficient guarantee that a criminal course is not likely to be persisted in. In arriving at an opinion on this point, the Institution Board will, of course, avail themselves to the fullest extent of the services and experience of the representative of the Borstal Association. Such representative will, if possible, be a member of the Visiting Committee, and thus closely identified with the history of each case from the commencement of sentence. Inquiries made by the Borstal Association as to home surroundings, parental influence, capacity for any special branch of work, will furnish the guide to the authorities in their determination of each case.

Inmates in the Special Grade will be specially located. Those not considered eligible for licence will, on passing into the Special Grade, be at once transferred to superior quarters, where they will be kept distinct from the main body, under a distinct body of officers, who will reside in quarters contiguous to such superior buildings. In addition to the privileges enjoyed by the Probationary Grade inmates in this Grade will have a special dress: their mess-room and dwelling rooms will be supplied with superior crockery, and they will elect their own mess president of each table or section. The reading of newspapers will be allowed.

Inmates may earn a good conduct stripe for every three months passed with exemplary conduct, carrying 5s. gratuity for the first stripe, 7s. 6d. for the second stripe, and 10s. for each stripe thereafter, up to a maximum of £2, half of which may be spent in purchase of articles for their own use, *e.g.*, material for private work, articles of clothing &c.

Inmates may, in addition to the privileges allowed in the Probationary Grade, be allowed outside the walls on parole, or to go errands, or to undertake work in the neighbourhood.

Every case in the Special Grade will be specially considered every two months by the Institution Board, with a view to conditional licence. The behaviour of inmates on parole will furnish the test of trustworthiness, and by its appeal to higher instincts, on conduct or behaviour, will strengthen the probability of successful liberation. A careful study and individualization, therefore, of each inmate in state of parole or semi-liberty, will furnish the necessary evidence for determining her fitness for liberty.

Star Special Grade.

6. When an inmate in the Special Grade appears, after close observation, to satisfy the Governor, by her general demeanour and efficiency, that she can be safely placed in a position of special trust, she may be promoted to what will be known as the Star Special Grade, or Honour Party, and wear a distinctive dress.

Such inmates may act as Monitors in different capacities, be employed in positions of trust in the Institution,— clerical work, library, nursing &c.,— or they may be placed in authority over other inmates or in situations where they can assist the administration in various capacities.

Penal Class.

7. The sanction of the System will be the Penal Class. This is an administrative, not a judicial, weapon in the hands of the Governor, and whose powers of degradation are unlimited. Strict separation in rooms, and loss of privilege, will be a sufficient deterrent for the unruly, combined with such ordinary punishment for occasional offences as the rules admit.

Where an inmate is believed to be exercising a bad influence, she shall be placed by the Governor in the Penal Class, for such time as the Governor considers necessary in the interest of the inmate herself, or others. She will forfeit the privilege of letters and visits. The Governor will record in the journal particulars of every case ordered to be placed in the Penal Class, with the reasons for the same, and stating the period during which an inmate is so retained. This record will be placed before the Commissioner or Inspector at each visit. The inmate will not be restored to a higher Grade without passing through a period of probation in the Ordinary Grade of such duration as the Governor may determine.

Gratuity.

8. A sum of £1 will be paid to the Borstal Association for each inmate released, for the purpose of providing assistance to inmates on discharge.

Letters & Visits.

9. An inmate will be allowed at the Governor's discretion to write and

receive letters and have visits as follows;—

In the Ordinary and Intermediate Grades —every six weeks.

In the Probationary Grade—every month.

In the Special Grade—Visits monthly; Letters fortnightly.

Visits will be of 30 minutes' duration for the Ordinary and Intermediate, and 40 minutes' for the Probationary and Special Grades, with reasonable extension in any case at the discretion of the Governor.

Education.

10. There will be a Board of Education, over which the Chaplain will preside. It will be the authority to consider all questions connected with the education of inmates, and will decide, as the result of examination, into which Grade each inmate shall be placed on reception.

11. The education of inmates will be classified as follows:—

- (1) **ELEMENTARY.** — Such inmates as are found on reception not to have profited sufficiently by the teaching received in Public Elementary Schools to pass out of Grade III of the National Code.
- (2) **PROGRESSIVE.** — Those who can pass out of that Stage, and are fit subjects for higher Grades.
- (3) **TECHNICAL.** — Inmates who are being prepared for commercial or other special pursuit.

(1) **ELEMENTARY EDUCATION.** — The standard aimed at may be broadly defined as follows, viz.:— “the ability to write a letter such as is needed by a woman applying for employment, and such arithmetic as a woman needs for the ordinary purpose of daily life, including checking her wages.” Such a Standard is practically represented by Grade III of the National Code, viz.:—

WRITING :—

Simple Spelling rules.
Simple Composition.
Reconstruction of easy stories.
Easy letter writing.
Dictation.

ARITHMETIC :—

4 simple rules.
4 compound rules (money & easy weights & measures).
Introduction to decimal system.
Simple fractions.

All inmates not qualified to pass from that Grade shall receive Education during the first three months of their sentence, at such times and in such classes as the Board of Education, created by Instruction 10,

shall decide; and such period may be extended in any special case where the Board is of opinion that it would be to the advantage of an inmate that this should be done.

Where an inmate obviously fails to profit by instruction, and there may be reason to think that this may be due to physical or mental causes, she will be specially examined by the Medical Officer, and such steps will be taken on his report as may be deemed suitable to meet the special circumstances of the case.

(2) **THE PROGRESSIVE CLASS** will consist of all those inmates who have passed through a period of Elementary instruction. Arrangements will be made by the Board of Education for such inmates to attend Evening School at such times, and for such objects as they may decide.

(3) **TECHNICAL CLASSES.** — These will be limited to those inmates who have been specially selected for a career in which a knowledge of special subjects is called for.

12. In addition to the times set apart for these respective Classes, there will be a Silent Hour for private study, for which a period of absolute silence for one hour daily will be introduced throughout the Institution, during which time all inmates will be engaged in the study of educational or trade matter. It is considered that organized private study is the most satisfactory way of securing that inmates shall not be locked in their rooms until late in the evening.

The objects of the Silent Hour are: —

- (1) To provide opportunity (a) for the working of tasks set by the Schoolmistresses; (b) for inmates to study their trade text books and prepare notes from the same;
- (2) To occupy the minds of the inmates in a profitable manner;
- (3) To inculcate habits of studious application in order that the benefits of mental concentration and self-control may become apparent.

13. It will be seen that a great responsibility is incumbent on the Education Board in arranging the details of Education on these lines. It will be the duty of the Governor, acting on the advice of the Chaplain and Schoolmistresses, to arrange the details of each Class, consistently with the general needs of the Establishment and the convenience of the staff; and it is only by a real and hearty co-operation between all members of the educational staff that the object of the system can be attained, viz. :— in the first place, to raise the ignorant and illiterate to such a standard of education as will enable them to compete with the ordinary conditions of life on discharge; and, secondly, to furnish opportunity to write intelligent English, and to rise not only to the higher educational grades, but to obtain special knowledge in the particular careers to which their faculties are applied.

14. In addition to the ordinary educational curriculum, it will be the duty of the Education Board, subject to the authority of the Governor, to organize a regular system of Lectures or Addresses, on such subjects as, in their opinion, are calculated to increase knowledge, to widen outlook, and to inspire by example, *e.g.*, readings from history or biography. They may, in addition, organize Debating Societies, where inmates can themselves take part in discussion on selected subjects. It is considered that Debating Societies might be a great advantage to the Institution. The advice of the Chaplain Inspector will always be available for the organization of the conduct of such Societies. They may also arrange for the formation of Singing or Choral Classes.

Revoked Licences.

15. Inmates whose licences are revoked, if not removed to a special Institution for such cases, will be placed in the Penal Class for one month, and will work with their room doors open, and will be employed at any suitable form of manual labour. After one month, they may, at the discretion of the Governor, be placed in the Ordinary Grade, and will be again removed to the Penal Class if he is satisfied that the inmate is making no real effort to improve. Any such case will be recorded in the Governor's Journal, to be laid before the Commissioner or Inspector at each visit. If no signs of improvement are manifest, the case will be submitted to the Visiting Committee for such action as may be desirable under Section 7 of the Act of 1908.

Industrial Training.

16. It is desirable that after a close observation of character and capacity, a definite view should be taken as to the class of training—industrial, domestic, clerical, or otherwise—for which an inmate is best fitted, and that she should be specialized on this with a view to her employment on discharge, but each inmate should, in the first instance pass through a course of instruction in laundrywork, housework, needlework and cooking, as such a course must always be of advantage, whatever the special employment to be followed on discharge may eventually be.

Farm and garden work, attending to poultry and cattle, will be a special feature of the Establishment, and will require special training, which will be provided. The various garden spaces will also offer profitable employment and training under suitable instruction. In any place where there are garden plots, they will be kept with scrupulous care and neatness in all parts of the Establishment. The grass will be kept closely mown, and flower beds placed in all appropriate spots. Officers will be given the option of cultivating the plots contiguous to their Quarters, but failing this, it will be the duty of the inmates.

Farm and garden work, though it can be assigned specifically as training for a certain number of inmates, is rather a valuable subsidiary employment, to be made use of largely on medical and physiological grounds for girls requiring active labour in the open air, or who are

unsuitable for other forms of labour. For such reasons, there would be no objection to employing girls in the Ordinary Grade on such work for limited periods, or in the summer evenings in lieu of labour in their rooms, always provided that girls in this Grade work under disciplinary supervision, which will be the differentia of this Grade.

Punishments.

17. No punishment or privation of any kind shall be awarded to an inmate by any officer of the institution except the Governor, or in his absence, the officer appointed to act for him.

An inmate shall be guilty of an offence against the discipline of the institution if she ;—

- (1) Disobeys any order or rule.
- (2) Treats an officer with disrespect.
- (3) Is idle or careless at work.
- (4) Is irreverent at Divine Service or Prayers.
- (5) Uses bad language or threats.
- (6) Is indecent in language, act or gesture.
- (7) Strikes or behaves in a provoking way to another inmate.
- (8) Makes a disturbance by singing, whistling or shouting.
- (9) Does any damage.
- (10) Has in her room, or cubicle, or dormitory, or in her pockets or clothes, anything she has not been given leave to have. Nothing found on the grounds, or on the farm, may be picked up and kept.
- (11) Receives anything from any other inmate, or gives anything to any inmate without leave.
- (12) Misbehaves herself in any other way.

The Governor may examine any person touching any alleged offence against the discipline of the institution, and determine thereupon and punish the offence.

In addition to the power vested in the Governor for ordering an inmate to be placed in the Penal Class, the above offences may be punished in the following way :—

- (1) By deprivation of any privilege, or
- (2) In the manner prescribed by Prison Rules.

If an inmate is charged with any serious or repeated offence for which the punishment the Governor is authorized to inflict is deemed insufficient, she shall be brought before the Visiting Committee, or one of them, who, in addition to any power vested in the Governor, may order such punishment as is prescribed by Prison Rules; or, in the exercise of their discretion, may report her to the Secretary of State as incorrigible, or

exercising a bad influence, with a view to commutation to a sentence of imprisonment under Section 7 of the Act of 1908.

18. Officers and Inmates of Borstal Institutions shall be subject to the Standing Orders for Local Prisons, except in so far as they are inconsistent with the Regulations and Instructions made under the Prevention of Crime Act, 1908.

TIME TABLE FOR FEMALES.

6.0 a.m.	Inmates rise.
6.30 „	Clean rooms, boots, &c.
7.25 „	Inmates breakfast.
7.55 „	Chapel.
8.15 „	Labour.
12 noon	Drill Exercise and inmates dinner.
1.25 p.m.	Labour.
5.0 „	Inmates tea.
5.30 „	Bible class, choir practice, singing class & bathing.
6.0 „	Silent hour.
7.0 „	Evening labour.
8.0 „	Recreation.
9.30 „	Lights out.

APPENDIX (b)

RULES FOR PERSONS UNDERGOING PREVENTIVE DETENTION.

(1.) Persons undergoing Preventive Detention shall be divided into three Grades, Ordinary, Special, and Disciplinary. On entering upon Preventive Detention, they shall be placed in the Ordinary Grade.

(2.) After every six months passed in the Ordinary Grade with exemplary conduct a prisoner who has shown zeal and industry in the work assigned to him may be awarded a certificate of industry and conduct. Four of these certificates will entitle him to promotion to the Special Grade. With each certificate a prisoner will receive a good conduct stripe carrying privileges or a small money payment.

(3.) A prisoner may be placed in the Disciplinary Grade by order of the Governor as part of a punishment for misconduct, or because he is known to be exercising a bad influence on others, and may be kept there as long as may be necessary in the interests of himself and of others. While in the Disciplinary Grade he may be employed in association if his conduct justifies association, but he will not be associated with others except at labour.

(4.) Prisoners will be employed either at useful trades in which they will be instructed, or at agricultural work, or in the service of the Prison, and those in the Ordinary and Special Grades will be allowed to earn gratuity by their work. They will be allowed to spend a portion of their gratuity in the purchase of additions to their dietary, or to send it to their families, or to accumulate it for use on their discharge.

(5.) A prisoner who is in Hospital, or medically unfit for full work will, on the recommendation of the Medical Officer who will certify that the disability was genuine

and not caused by the prisoner's own fault, be credited with gratuity in proportion to his earnings when in health or calculated on his general disposition to work, coupled with good conduct.

(6.) A canteen will be opened in the Prison at which prisoners in the Ordinary and Special Grades may purchase articles of food, and other small articles at prices to be fixed by the Directors. The cost of such articles will be charged against each prisoner's gratuity. The privilege of purchasing articles in the canteen may at any time be limited or withdrawn by the Governor.

(7.) Prisoners who have obtained three certificates of industry will be eligible to have a garden allotment assigned to them which they may cultivate at such times as may be prescribed. The produce of these allotments will, if possible, be purchased for use in Prisons at market rates, and the proceeds credited to the prisoner.

(8.) Prisoners in the Ordinary Grade may be allowed to associate at meal times and also, after gaining the second certificate, in the evenings. Prisoners in the Special Grade may also be allowed to associate at meal times and in the evenings, and shall be allowed such additional relaxations of a literary and social character as may be prescribed from time to time.

(9.) Any of the privileges prescribed in these special rules or gratuity earned may be forfeited for misconduct. A prisoner has no legal claim upon his gratuity, which will be expended for his benefit, or may be withheld at the discretion of the Society or person under whose supervision he is placed.

(10.) It will be the duty of the Chaplain and Prison Minister to see each prisoner individually from time to time during his detention and to promote the reformation of those under their spiritual charge. Divine Service will be held weekly in the Prison, and there will be in addition such Mission Services, lectures and addresses on religious, moral and secular subjects as may be arranged.

(11.) Prisoners shall receive the diets which the Directors may prescribe from time to time.

(12.) Prisoners will be allowed to write and receive a

letter and to receive a visit at fixed intervals according to their Grade.

(13.) The Board of Visitors appointed by the Secretary of State under Section 13 (4) of the Prevention of Crime Act, 1908, shall hold office for three years. Their powers shall not be affected by vacancies. The Secretary of State shall, as soon as possible, fill any vacancy by making a new appointment. At their first meeting they shall appoint a Chairman. One or more of them shall visit the Prison once a month, and they shall meet as a Board as often as possible. They shall hear and adjudicate on such offences on the part of prisoners as may be referred to them by the Directors, and they shall investigate any complaint which a prisoner may desire to make to them, and, if necessary, report the same to the Directors with their opinion. They shall have free access to every part of the Prison and may see any prisoner in private, inspect the diets and examine any of the books. They shall bring any abuses to the immediate notice of the Directors, and in cases of urgency they may make recommendations in writing which the Governor shall carry out pending the decision of the Directors. They shall keep minutes of their proceedings, and make an annual report to the Secretary of State at the beginning of each year.

(14.) The Committee appointed under Section 14 (4) of the said Act shall meet once a quarter, and shall forward to the Directors such reports as may be required for their assistance in advising the Secretary of State as to the prospects and probable behaviour of prisoners after discharge.

(15.) Any person whose licence has been revoked or forfeited may on his return to Prison be placed and kept in the Disciplinary Grade for such length of time as the Board of Visitors shall think necessary.

THE ENGLISH PRISON SYSTEM.

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